



AGENDA
REGULAR COUNCIL MEETING

Monday, January 17, 2022

5:00 p.m. To Proceed In Camera, Reconvene Open Meeting at 7:00 p.m.

ELECTRONIC MEETING

Location for public attendance:

Shaw Auditorium, Vancouver Island Conference Centre, 80 Commercial Street, Nanaimo, BC

SCHEDULED RECESS AT 9:00 P.M.

Pages

1. CALL THE MEETING TO ORDER:

2. PROCEDURAL MOTION:

That the meeting be closed to the public in order to deal with agenda items under the *Community Charter*:

Section 90(1) A part of the Council meeting may be closed to the public if the subject matter being considered relates to or is one or more of the following:

(a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;

(b) personal information about an identifiable individual who is being considered for a municipal award or honour, or who has offered to provide a gift to the municipality on condition of anonymity;

(c) labour relations or other employee relations;

(e) the acquisition, disposition or expropriation of land or improvements, if the Council considers that disclosure could reasonably be expected to harm the interests of the municipality;

(g) litigation or potential litigation affecting the municipality;

(i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;

(n) the consideration of whether a Council meeting should be closed under a provision of this subsection or subsection (2);

Community Charter Section 90(2):

(b) the consideration of information received and held in confidence relating to negotiations between the municipality and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party.

3. INTRODUCTION OF LATE ITEMS:

4. APPROVAL OF THE AGENDA:

5. ADOPTION OF THE MINUTES:

a. Minutes 8 - 15

Minutes of the Special Council Meeting (Public Hearing) held in the Shaw Auditorium, Vancouver Island Conference Centre, 80 Commercial Street, Nanaimo, BC on Thursday, 2021-NOV-18 at 7:00 p.m.

b. Minutes 16 - 28

Minutes of the Regular Council Meeting held in the Shaw Auditorium, Vancouver Island Conference Centre, 80 Commercial Street, Nanaimo, BC on Monday, 2021-DEC-06 at 4:00 p.m.

c. Minutes 29 - 31

Minutes of the Special Council Meeting (Public Hearing) held in the Shaw Auditorium, Vancouver Island Conference Centre, 80 Commercial Street, Nanaimo, BC on Thursday, 2021-DEC-16 at 7:00 p.m.

d. Minutes 32 - 46

Minutes of the Regular Council Meeting held in the Shaw Auditorium, Vancouver Island Conference Centre, 80 Commercial Street, Nanaimo, BC on Monday, 2021-DEC-20 at 4:00 p.m.

6. MAYOR'S REPORT:

7. RISE AND REPORT

8. PRESENTATIONS:

a. Poetry Reading

Pre-recorded poetry reading from Poet Laureate Kamal Parmar.

b. Regional District of Nanaimo Freshwater Perspectives 2021 Public Benchmark Survey Results 47 - 52

Julie Pisani, Drinking Water & Watershed Protection Program Coordinator,

Regional District of Nanaimo, to provide a presentation via Zoom.

9. COMMITTEE MINUTES:

- a. Minutes 53 - 56

Minutes of the Special District 68 Sports Field and Recreation Committee Meeting held in the Boardroom, Service and Resource Centre, 411 Dunsmuir Street, Nanaimo, BC on Thursday, 2020-DEC-03 at 2:00 p.m.

- b. Minutes 57 - 64

Minutes of the Governance and Priorities Committee Meeting held in the Shaw Auditorium, Vancouver Island Conference Centre, 80 Commercial Street, Nanaimo, BC on Monday, 2021-NOV-22 at 1:00 p.m.

10. CONSENT ITEMS:

11. DELEGATIONS:

12. REPORTS:

- a. Mid-Town Water Supply Project 65 - 73

To be introduced by Bill Sims, General Manager, Engineering and Public Works.

Purpose: To provide Council with information regarding the Mid-Town Water Supply Project.

Presentation:

1. Mike Squire, Manager, Water Resources.

- b. Abandoning Bylaws Not Proceeding to Adoption 74 - 86

To be introduced by Sheila Gurrie, Director, Legislative Services.

Purpose: To formally abandon bylaws that received first three readings but will not proceed to adoption.

Recommendation: That Council abandon the following bylaws:

1. "Zoning Amendment Bylaw 2019 No. 4500.153"
2. "Official Community Plan Amendment Bylaw 2019 No. 6500.041"
3. "Traffic and Highways Regulation Amendment Bylaw 2019 No. 5000.046"
4. "Trapping Bylaw 2013 No. 7183"; and
5. "Port Theatre Borrowing Bylaw 2019 No. 7282"

87 - 89

c. Options to Ban Conversion Therapy

To be introduced by Sheila Gurrie, Director, Legislative Services.

Purpose: To provide Council with an update on the passing of Bill C-4 which makes it a criminal offence to force a person to undergo the practice of conversion therapy and how this relates to the options available for municipalities to regulate and prohibit conversion therapy.

Recommendation: That Council receive for information the January 17, 2022 report by the Deputy City Clerk regarding options to ban conversion therapy.

d. Appointment of Chief Election Officer and Deputy Chief Election Officer

90 - 104

To be introduced by Sheila Gurrie, Director, Legislative Services.

Purpose: To appoint a Chief Election Officer and Deputy Chief Election Officer for the purposes of conducting the 2022 City of Nanaimo election.

Recommendation:

1. That Sheila Gurrie, Director of Legislative Services, be appointed as the Chief Election Officer for the City of Nanaimo 2022 General Local Election;
2. That Sky Snelgrove, Steno Coordinator, be appointed as the Deputy Chief Election Officer for the City of Nanaimo 2022 General Local Election; and
3. That despite Section 14.1 of the "Management Terms and Conditions of Employment Bylaw 2019 No 7273", the Director of Legislative Services be compensated for any hours worked on the election (outside of the regular work day) at straight time under the terms and conditions as outlined under section 14.2 of the bylaw.

e. Development Permit Application No. DP001204 - 25 Spyglass Lookout

105 - 118

To be introduced by Dale Lindsay, Deputy CAO/General Manager, Development Services.

Purpose: To present for Council's consideration, a development permit application for a single residential dwelling within the aquatic setback at 25 Spyglass Lookout.

Delegation:

1. Mark Kelly

Recommendation: That Council issue Development Permit No. DP1204 at 25 Spyglass Lookout with the following variances to:

- reduce the minimum required watercourse setback from the natural boundary of the sea for a single residential dwelling from 15.0m to 6.4m;

- reduce the minimum required watercourse setback from the natural boundary of the sea for above-ground servicing from 15.0m to 0.0m; and
- reduce the minimum required number of off-street parking spaces from 2 to 0.

f. Development Permit Application No. DP1208 - 497 Menzies Ridge Drive 119 - 141

To be introduced by Dale Lindsay, Deputy CAO/General Manager, Development Services.

Purpose: To present for Council's consideration, a development permit application for a 22-unit multi-family townhouse development at 497 Menzies Ridge Drive.

Recommendation: That Council issue Development Permit No. DP1208 at 497 Menzies Ridge Drive to permit a multi-family townhouse development with the following variances to:

- reduce the minimum landscape buffer requirement for the side and rear yard from 1.8m to 0m; and
- increase the maximum allowable fence height within the front yard setback from 1.2m to 2.8m for the proposed decorative arbours.

g. Rezoning Application No. RA438 - 5707 Lost Lake Road 142 - 153

To be introduced by Dale Lindsay, Deputy CAO/General Manager, Development Services.

Purpose: To present Council with an application to rezone 5707 Lost Lake Road from Single Dwelling Residential (R1) to Low Density Residential (R6) to allow a multi-family residential development.

Recommendation: That:

1. "Zoning Amendment Bylaw 2022 No. 4500.198" (To rezone 5707 Lost Lake Road from Single Dwelling Residential [R1] to Low Density Residential [R6] to allow a multi-family residential development) pass first reading;
2. "Zoning Amendment Bylaw 2022 No. 4500.198" pass second reading; and
3. Council direct Staff to secure road dedication and the community amenity contribution should Council support the bylaw at third reading.

h. Liquor Licence Application No. LA145 - 1431 Bowen Road 154 - 161

To be Introduced by Dale Lindsay, Deputy CAO/General Manager, Development Services.

Purpose: To provide Council with information regarding an application has been

received to amend the existing liquor licence at 1431 Bowen Road (Quarterway Pub) to permit an outdoor patio.

i. Approval of Nanaimo Yacht Club Lease Renewal - 400 Newcastle Avenue 162 - 167

To be introduced by Bill Corsan, Director, Corporate and Business Development.

Purpose: To obtain Council approval to establish the 2022-2026 rent for the Nanaimo Yacht Club lease of City-owned property at 400 Newcastle Avenue.

Recommendation: That Council:

1. set an annual market rent of \$179,659 to be charged to the Nanaimo Yacht Club for the 2022-2026 lease renewal;
2. provide annual assistance of \$71,863 to the Nanaimo Yacht Club, in recognition of its contribution to the community, by way of rent abatement; and
3. authorize the Mayor and Corporate Officer to execute the 2022-2026 Lease Renewal Agreement.

j. Approval of Articles of Incorporation and Shareholder Agreement for the Nanaimo Prosperity Corporation 168 - 229

To be introduced by Bill Corsan, Director, Corporate and Business Development.

Purpose: To seek Council approval to establish the Nanaimo Prosperity Corporation by formally approving the Articles of Incorporation and Shareholder Agreement.

Recommendation: That Council:

1. approve the Articles of Incorporation and Shareholder Agreement for the Nanaimo Prosperity Corporation;
2. appoint a Council member as a non-voting director to the Board of the Nanaimo Prosperity Corporation until November 2022; and
3. direct Staff to work with the Nanaimo Prosperity Corporation shareholders to host the inaugural Board meeting no later than 2022-MAR-30.

13. **BYLAWS:**

a. "School Site Acquisition Charges Bylaw 2021 No. 7338" 230 - 231

That "School Site Acquisition Charges Bylaw 2021 No. 7338" (To require the payment of school site acquisition charges on developments of two and three residential units) be adopted.

14. **NOTICE OF MOTION:**

15. OTHER BUSINESS:

- a. Request from Councillor Hemmens re: Local Government Leadership Academy Training

Recommendation: That in accordance with the Council Spending and Amenities Policy, Councillor Hemmens be permitted to attend training at the Local Government Leadership Academy.

16. QUESTION PERIOD:

17. ADJOURNMENT:

MINUTES
SPECIAL COUNCIL MEETING (PUBLIC HEARING)
SHAW AUDITORIUM, VANCOUVER ISLAND CONFERENCE CENTRE
80 COMMERCIAL STREET, NANAIMO, BC
THURSDAY, 2021-NOV-18, AT 7:00 P.M.

Present: Mayor L. Krog, Chair
Councillor S. D. Armstrong (joined electronically)
Councillor D. Bonner (joined electronically)
Councillor T. Brown (joined electronically)
Councillor E. Hemmens
Councillor Z. Maartman
Councillor I. W. Thorpe
Councillor J. Turley

Absent: Councillor B. Geselbracht

Staff: J. Holm, Director, Development Approvals
D. Fox, Manager, Building Inspections
L. Rowett, Manager, Current Planning
L. Brinkman, Planner, Current Planning
C. Horn, Planner, Current Planning
B. Zurek, Planner, Community Planning
M. Rempel, Planning Assistant
S. Robinson, Planning Assistant
K. Robertson, Deputy City Clerk
K. Gerard, Steno, Legislative Services
K Lundgren, Recording Secretary

1. CALL THE SPECIAL COUNCIL MEETING TO ORDER:

The Special Meeting was called to order at 7:00 p.m.

2. INTRODUCTION OF LATE ITEMS:

- (a) Remove Agenda Item 10(a) Bylaw Contravention Notice – Construction Started Without a Building Permit – 4376 Boban Drive.
- (b) Agenda Item 10(b) Bylaw Contravention Notice - Construction Started Without a Permit - 5941 Nelson Road - Add delegation Jade Dawson.
- (c) Agenda Item 10(c) Bylaw Contravention Notice - Construction Started Without a Building Permit - 61 Twelfth Street - Add delegations John Willam Berger and Daryl Baratta.

3. ADOPTION OF AGENDA:

It was moved and seconded that the Agenda, as amended, be adopted. The motion carried unanimously.

Mayor Krog spoke regarding the purpose of a Public Hearing, advised that Council was meeting on the traditional territory of the Snuneymuxw First Nation and advised of the standard protocols for a Public Hearing.

4. PUBLIC HEARING REQUIREMENTS:

Mayor Krog outlined the process to accommodate members of the public who were attending in person and for those who wanted to call in to participate by phone.

Lainya Rowett, Manager, Current Planning, explained the requirements for conducting a Public Hearing.

5. PUBLIC HEARING FOR OFFICIAL COMMUNITY PLAN AMENDMENT APPLICATION NO. OCP93, OCP AMENDMENT BYLAW 2021 NO. 6500.042 - 54, 55, 65, 66, 69, 70, AND 73 PRIDEAUX STREET; AND 503, 531, 605, 619, AND 685 COMOX ROAD

(a) Official Community Plan Amendment Application No. OCP93 - 54, 55, 65, 66, 69, 70, and 73 Prideaux Street; and 503, 531, 605, 619, and 685 Comox Road

Mayor Krog called the Public Hearing to order at 7:05 p.m.

Introduced by Brian Zurek, Planner, Community Planning.

Mayor Krog called for submissions from the Applicant and the Public.

No one wished to speak regarding Official Community Plan (OCP) Amendment Application No. OCP93 - 54, 55, 65, 66, 69, 70, and 73 Prideaux Street; and 503, 531, 605, 619, and 685 Comox Road.

Mayor Krog called for submissions from the Public for a second time:

1. Selena Kwok, Low Hammond Rowe Road Architects, Applicant spoke in favor via telephone, on behalf of the Nanaimo Affordable Housing Society (NAHS) and stated:

- Working with the Nanaimo Affordable Housing Society (NAHS) to provide affordable rental housing in the community
- Several of NAHS' existing buildings are nearing end-of-life
- The vision is to consolidate and redevelop the properties
- They will be designed to energy efficient standards
- Meeting a number of the OCP policy objectives by increasing the supply of rental housing
- The goal is to increase density and provide for more affordable housing near the downtown core

2. Scott Lescak, Carbon Safety Solutions, Nanaimo, requested clarification and further information on the proposed project plans.

Mayor Krog called for submissions from the Public for a third and final time:

3. Barbara Newman, Nanaimo, spoke in opposition and stated concerns regarding accommodating existing tenants that reside in the building as well as a lack of information received regarding the proposed redevelopment.
4. Andrea Blakeman, CEO, Nanaimo Affordable Housing Society, Nanaimo, spoke regarding the process in supporting existing tenants to find temporary or long term housing elsewhere as well as options for moving back into the redevelopment.
5. Barbara Newman, Nanaimo, spoke for a second time regarding difficulties related to her current tenancy.

Four (4) written submissions were received prior to the start of the Special Council Meeting (Public Hearing), 2021-NOV-18, and no written submissions were received at the Public Hearing with respect to Official Community Plan Amendment Application No. OCP93 - 54, 55, 65, 66, 69, 70, and 73 Prideaux Street; and 503, 531, 605, 619, and 685 Comox Road.

Mayor Krog announced that following the close of a Public Hearing, no further submissions or comments from the public or interested persons could be accepted by members of City Council.

Hearing no further comments from the public the Mayor declared the Public Hearing for OCP93 - 54, 55, 65, 66, 69, 70, and 73 Prideaux Street; and 503, 531, 605, 619, and 685 Comox Road be closed at 7:33 p.m.

It was moved and seconded that “Official Community Plan Amendment Bylaw 2021 No. 6500.042” (To re-designate 54, 55, 65, 66, 69, 70, and 73 Prideaux Street; and 503, 531, 605, 619, and 685 Comox Road on the Future Land Use Plan [Map 1] from Neighbourhood to Urban Node, and the text amendment of Section 4.1.2 Land Use Designations of the Old City Neighbourhood Concept Plan) pass third reading. The motion carried unanimously.

6. PUBLIC HEARING FOR REZONING APPLICATION NO. RA463 - 55, 65, 66, 69, AND 73 PRIDEAUX STREET, ZONING AMENDMENT BYLAW 2021 NO. 4500.188

(a) Rezoning Application No. RA463 - 55, 65, 66, 69, and 73 Prideaux Street

Mayor Krog called the Public Hearing to order at 7:34 p.m.

Introduced by Brian Zurek, Planner, Community Planning.

Mayor Krog called for submissions from the Applicant and Public.

1. Andrea Blakeman, CEO, Nanaimo Affordable Housing Society, advised Council that she was in attendance to answer any questions.

Mayor Krog called for submissions from the Public for a second time:

No one wished to speak regarding Rezoning Application No. RA463 - 55, 65, 66, 69, and 73 Prideaux Street.

Mayor Krog called for submissions from the Public for a third and final time:

2. Greg Klein, Nanaimo, spoke via telephone, in opposition, stating concerns regarding a lack of communication in respect to the proposed redevelopment, and the effect that high-density housing will have on the prices of rental accommodation throughout Nanaimo.

Three (3) written submissions were received prior to the start of the Special Council Meeting (Public Hearing), 2021-NOV-18, and no written submissions were received at the Public Hearing with respect to Rezoning Application No. RA463 - 55, 65, 66, 69, and 73 Prideaux Street.

Mayor Krog announced that following the close of a Public Hearing, no further submissions or comments from the public or interested persons could be accepted by members of City Council.

Hearing no further comments from the public the Mayor declared the Public Hearing for RA463 - 55, 65, 66, 69, and 73 Prideaux Street be closed at 7:51 p.m.

It was moved and seconded that “Zoning Amendment Bylaw 2021 No. 4500.188” (To rezone 55, 65, 66, 69, and 73 Prideaux Street by increasing the maximum permitted building height and floor area ratio regulations in the Old City Mixed Use [DT8] zone) pass third reading. The motion carried unanimously.

7. PUBLIC HEARING FOR REZONING APPLICATION NO. RA468 - 6004 NELSON ROAD - ZONING AMENDMENT BYLAW 2021 NO. 4500.192

(a) Rezoning Application No. RA468 - 6004 Nelson Road

Mayor Krog called the Public Hearing to order at 7:52 p.m.

Introduced by Lisa Brinkman, Planner, Current Planning.

Mayor Krog called for submissions from the Applicant and the Public

1. Toby Seward, Seward Developments Inc., Nanaimo, via telephone, spoke in favor of Rezoning Application No. RA468 - 6004 Nelson Road, and stated:
 - The property is 1.5 acres
 - Proposal is compatible with other housing units in the area
 - Nearby amenities include Randerson Ridge Elementary School, bus routes and trails
 - Proposed development will consist of 16 townhouse residential units
 - Each unit proposed to be two stories with three to four bedrooms
 - Several concerns raised at a public information meeting have been noted such as school traffic congestion, parking spaces, and seeking similar designs to what is in the neighbourhood

Mayor Krog called for submissions from the Public for a second time:

No one wished to speak regarding Rezoning Application No. RA468 - 6004 Nelson Road.

Mayor Krog called for submissions from the Public for a third and final time:

No one wished to speak regarding Rezoning Application No. RA468 - 6004 Nelson Road.

Four (4) written submissions were received prior to the start of the Special Council Meeting (Public Hearing), 2021-NOV-18, and no written submissions were received at the Public Hearing with respect to Rezoning Application RA468 - 6004 Nelson Road.

Mayor Krog announced that following the close of a Public Hearing, no further submissions or comments from the public or interested persons could be accepted by members of City Council.

Hearing no further comments from the public the Mayor declared the Public Hearing for RA468 - 6004 Nelson Road be closed at 8:01 p.m.

It was moved and seconded that “Zoning Amendment Bylaw 2021 No. 4500.192” (To rezone 6004 Nelson Road from Single Dwelling Residential [R1] to Low Density Residential [R6]) pass third reading. The motion carried unanimously.

8. PUBLIC HEARING FOR GENERAL AMENDMENTS TO CITY OF NANAIMO ZONING BYLAW AND PARKING BYLAW - ZONING AMENDMENT BYLAW 2021 NO. 4500.182 AND OFF-STREET PARKING REGULATIONS AMENDMENT BYLAW 2021 NO. 7266.02

- (a) General Amendments to City of Nanaimo Zoning Bylaw and Parking Bylaw - Zoning Amendment Bylaw 2021 No. 4500.182 and Off-Street Parking Regulations Amendment Bylaw 2021 No. 7266.02

Mayor Krog called the Public Hearing to order at 8:02 p.m.

Introduced by Caleb Horn, Planner, Current Planning.

Mayor Krog called for submissions from the Public:

No one wished to speak regarding General Amendments to City of Nanaimo Zoning Bylaw and Parking Bylaw - “Zoning Amendment Bylaw 2021 No. 4500.182” and “Off-Street Parking Regulations Amendment Bylaw 2021 No. 7266.02”.

Mayor Krog called for submissions from the Public for a second time:

No one wished to speak regarding General Amendments to City of Nanaimo Zoning Bylaw and Parking Bylaw - “Zoning Amendment Bylaw 2021 No. 4500.182” and “Off-Street Parking Regulations Amendment Bylaw 2021 No. 7266.02”.

Mayor Krog called for submissions from the Public for a third and final time:

No one wished to speak regarding General Amendments to City of Nanaimo Zoning Bylaw and Parking Bylaw - “Zoning Amendment Bylaw 2021 No. 4500.182” and “Off-Street Parking Regulations Amendment Bylaw 2021 No. 7266.02”.

No written submissions were received prior to the start of the Special Council Meeting (Public Hearing), 2021-NOV-18, and no written submissions were received at the Public Hearing with respect to General Amendments to City of Nanaimo Zoning Bylaw and Parking Bylaw – “Zoning Amendment Bylaw 2021 No. 4500.182” and “Off-Street Parking Regulations Amendment Bylaw 2021 No. 7266.02”.

Mayor Krog announced that following the close of a Public Hearing, no further submissions or comments from the public or interested persons could be accepted by members of City Council.

Hearing no further comments from the public the Mayor declared the Public Hearing for “Zoning Amendment Bylaw 2021 No. 4500.182” and “Off-Street Parking Regulations Amendment Bylaw 2021 No. 7266.02” be closed at 8:07 p.m.

It was moved and seconded that “Zoning Amendment Bylaw 2021 No. 4500.182” (To make general text and mapping amendments to “City of Nanaimo Zoning Bylaw 2011 No. 4500”) pass third reading. The motion carried unanimously.

It was moved and seconded that “Off-Street Parking Regulations Amendment Bylaw 2021 No. 7266.02” (To make general text amendments to “Off-Street Parking Regulation Bylaw 2018 No. 7266”) pass third reading. The motion carried unanimously.

9. PUBLIC HEARING FOR COVENANT AMENDMENT APPLICATION NO. CA15 - 416 WAKESIAH AVENUE

(a) Covenant Amendment Application No. CA15 - 416 Wakesiah Avenue

Mayor Krog called the Public Hearing to order at 8:08 p.m.

Introduced by Caleb Horn, Planner, Current Planning.

Mayor Krog called for submissions from the Applicant and the Public:

No one wished to speak regarding Covenant Amendment Application No. CA15 - 416 Wakesiah Avenue.

Mayor Krog called for submissions from the Public for a second time:

No one wished to speak regarding Covenant Amendment Application No. CA15 - 416 Wakesiah Avenue.

Mayor Krog called for submissions from the Public for a third and final time:

No one wished to speak regarding Covenant Amendment Application No. CA15 - 416 Wakesiah Avenue.

Three (3) written submissions were received prior to the start of the Special Council Meeting (Public Hearing), 2021-NOV-18, and no written submissions were received at the Public Hearing with respect to Covenant Amendment Application No. CA15 - 416 Wakesiah Avenue.

Mayor Krog announced that following the close of a Public Hearing, no further submissions or comments from the public or interested persons could be accepted by members of City Council.

Hearing no further comments from the public the Mayor declared the Public Hearing for CA15 - 416 Wakesiah Avenue be closed at 8:13 p.m.

It was moved and seconded that “Housing Agreement Bylaw 2021 No. 7334” (To authorize a housing agreement for a student housing development at 416 Wakesiah Avenue) be adopted. The motion carried unanimously.

It was moved and seconded that Council direct Staff to:

- a. discharge the section 219 covenant (CA5052723) and notice on title (CA5214792) associated with the existing housing agreement;
- b. register a covenant to reinforce the terms of the new housing agreement which limits the number of student housing beds; and
- c. secure the community amenity contribution.

The motion carried unanimously.

10. REPORTS:

- (a) Bylaw Contravention Notice - Construction Started Without a Permit - 5941 Nelson Road

Introduced by Darcy Fox, Manager, Building Inspections.

Delegation:

1. Jade Dawson spoke regarding taking possession of the property and unaware of the work being done without a permit. She spoke of the lengthy time for building inspections, complying to the City’s requirements, difficulties with attaining contractors during the pandemic, and advised that this was not done intentionally.

It was moved and seconded that Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 5941 Nelson Road for construction started without a building permit in contravention of “Building Bylaw 2016 No. 7224”. The motion carried.

Opposed: *Councillors Bonner and Turley*

(b) Bylaw Contravention Notice - Construction Started Without a Building Permit - 61 Twelfth Street

Introduced by Darcy Fox, Manager, Building Inspections.

Delegations:

1. John William Berger spoke regarding the frustration and difficulties regarding attaining a contractor to supply preliminary drawings for the project. He advised that he has received the drawings and requested additional time to submit.
2. Daryl Baratta, Manager of the mobile home park, spoke in support of the property owner, regarding the owner's valid efforts and difficulties in finding contractors. He requested that Council grant the owner more time.

It was moved and seconded that Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 61 Twelfth Street for construction started without a building permit in contravention of "Building Bylaw 2016 No. 7224". The motion carried.

Opposed: *Councillors Armstrong, Bonner, and Turley*

(c) Bylaw Contravention Notice - Construction Started Without a Building Permit - 3411 Shenton Road

Introduced by Darcy Fox, Manager, Building Inspections.

It was moved and seconded that Council direct the Corporate Officer to file a Bylaw Contravention Notice at the Land Title and Survey Authority of British Columbia under Section 57 of the *Community Charter* for the property located at 3411 Shenton Road for construction started without a building permit in contravention of "Building Bylaw 2016 No. 7224". The motion carried unanimously.

11. ADJOURNMENT:

It was moved and seconded at 8:34 p.m. that the Special Council meeting be adjourned. The motion carried unanimously.

CERTIFIED CORRECT:

CHAIR

CORPORATE OFFICER

MINUTES
REGULAR COUNCIL MEETING
SHAW AUDITORIUM, VANCOUVER ISLAND CONFERENCE CENTRE,
80 COMMERCIAL STREET, NANAIMO, BC
MONDAY, 2021-DEC-06, AT 4:00 P.M.

Present: Mayor L. Krog, Chair
Councillor S. D. Armstrong
Councillor D. Bonner
Councillor T. Brown
Councillor B. Geselbracht
Councillor E. Hemmens
Councillor Z. Maartman
Councillor I. W. Thorpe
Councillor J. Turley

Staff: J. Rudolph, Chief Administrative Officer
A. Groot, A/General Manager, Parks, Recreation and Culture
D. Lindsay, General Manager, Development Services
B. Sims, General Manager, Engineering and Public Works
J. Holm, Director, Development Approvals
L. Mercer, Director, Finance
C. Davis, Manager, Parks Operations
D. Thompson, Manager, Roads and Traffic Services
B. Wardill, Manager, Revenue Services
S. Gurrie, Director, Legislative Services
K. Gerard, Recording Secretary
A. Mac Coll, Recording Secretary

1. CALL THE REGULAR MEETING TO ORDER:

The Regular Council Meeting was called to order at 4:00 p.m.

2. PROCEDURAL MOTION TO PROCEED IN CAMERA:

It was moved and seconded that the meeting be closed to the public in order to deal with agenda items under the *Community Charter*:

- (a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;
- (c) labour relations or other employee relations;
- (e) the acquisition, disposition or expropriation of land or improvements, if the Council considers that disclosure could reasonably be expected to harm the interests of the municipality; and,

- (k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the Council, could reasonably be expected to harm the interests of the municipality if they were held in public.

The motion carried unanimously.

Council moved In Camera at 4:00 p.m.
Council moved out of In Camera at 6:10 p.m.

Council recessed the Open Meeting 6:10 p.m.
Council reconvened the Open Meeting at 7:00 p.m.

3. INTRODUCTION OF LATE ITEMS:

- (a) Add Agenda Item 11(a) – Delegation Pat Squire regarding Public Works, Bowen Cemetery and Stored Grave Markers.
- (b) Agenda Item 12(a) – Development Permit Application No. DP1204 – 25 Spyglass Lookout – Add Delegations:
1. John Sinclair
 2. David Groves
 3. Brian Senini
 4. Christina Nichol
 5. Peter Rombough
 6. James MacQuarrie
 7. Norah Curtis
 8. Doug Hay
- (c) Agenda Item 12(b) – Official Community Plan Amendment Application No. OCP96 – Bowers District Master Plan – Add Delegation – Bill Manners.
- (d) Remove Agenda Item 12(n) – Appointment of Bylaw Enforcement Officer.

4. APPROVAL OF THE AGENDA:

It was moved and seconded that the Agenda, as amended, be adopted. The motion carried unanimously.

5. ADOPTION OF THE MINUTES:

It was moved and seconded that the following Minutes be adopted as circulated:

- Minutes of the Special Council Meeting (Public Hearing) held in the Shaw Auditorium, Vancouver Island Conference Centre, 80 Commercial Street, Nanaimo, BC, on Thursday, 2021-OCT-21, at 7:00 p.m.

- Minutes of the Regular Council Meeting held in the Shaw Auditorium, Vancouver Island Conference Centre, 80 Commercial Street, Nanaimo, BC, on Monday, 2021-NOV-15, at 4:00 p.m.
- Minutes of the Special Council Meeting (Public Hearing) held in the Shaw Auditorium, Vancouver Island Conference Centre, 80 Commercial Street, Nanaimo, BC, on Monday, 2021-NOV-18, at 7:00 p.m.

The motion carried unanimously.

6. MAYOR'S REPORT:

Mayor Krog spoke regarding:

- Mayor and Council send their sympathies to the family of Fred Taylor on his recent passing. Fred Taylor was a Nanaimo historian and in 26 years he never missed a Regular Council Meeting,
- Reminded residents to slow down and be cautious in winter weather. For updates on weather and driving conditions members of the public can view the City's Twitter and Facebook page.
- The City is pleased to announce the acquisition of the property at 1861 East Wellington Road for the purpose of leasing to Loaves and Fishes. The new warehouse will provide more space for the distribution of food to families and individuals in Nanaimo and Vancouver Island
- Upgrades have been made to Harewood Centennial Park with funding provided by the City of Nanaimo, the Lions Club and Kal Tires Replay Fund
- Modified swimming schedules will continue at Beban Park pool until further notice as Staff deal with repairs to the 25 metre pool. The leisure pool, hot tub, steam room, sauna and teaching pool are open.

7. PRESENTATIONS:

(a) City of Nanaimo Winter Preparedness

Dave Thompson, Manager, Roads and Traffic Services, and Charlotte Davis, Manager, Parks Operations, provided Council with a PowerPoint presentation regarding winter preparedness for 2021/2022 in the City of Nanaimo including priority routes, staffing, budget, new equipment and the development of a new Snow and Ice Policy.

8. COMMITTEE MINUTES:

The following Committee Minutes were received:

- Minutes of the Design Advisory Panel Meeting held in the Boardroom, Service and Resource Centre, 411 Dunsmuir Street, Nanaimo, BC, on Thursday, 2021-JUN-10, at 5:00 p.m.

- Minutes of the Design Advisory Panel Meeting held in the Boardroom, Service and Resource Centre, 411 Dunsmuir Street, Nanaimo, BC, on Thursday, 2021-JUN-24, at 5:00 p.m.
- Minutes of the Design Advisory Panel Meeting held in the Boardroom, Service and Resource Centre, 411 Dunsmuir Street, Nanaimo, BC, on Thursday, 2021-JUL-29, at 5:00 p.m.
- Minutes of the Design Advisory Panel Meeting held in the Boardroom, Service and Resource Centre, 411 Dunsmuir Street, Nanaimo, BC, on Thursday, 2021-AUG-12, at 5:00 p.m.
- Minutes of the Advisory Committee on Accessibility and Inclusiveness held virtually, Nanaimo, BC, on Thursday, 2021-SEP-22, at 5:00 p.m.
- Minutes of the Special Finance and Audit Committee Meeting held in the Shaw Auditorium, Vancouver Island Conference Centre, 80 Commercial Street, Nanaimo, BC, on Friday, 2021-OCT-29 at 9:00 a.m.
- Minutes of the Special Finance and Audit Committee Meeting held in the Shaw Auditorium, Vancouver Island Conference Centre, 80 Commercial Street, Nanaimo, BC, on Wednesday, 2021-NOV-03 at 9:00 a.m.
- Minutes of the Governance and Priorities Committee Meeting held in the Shaw Auditorium, Vancouver Island Conference Centre, 80 Commercial Street, Nanaimo, BC, on Monday, 2021-NOV-08, at 1:00 p.m.
- Minutes of the Finance and Audit Committee Meeting held in the Shaw Auditorium, Vancouver Island Conference Centre, 80 Commercial Street, Nanaimo, BC, on Wednesday, 2021-NOV-17 at 9:00 a.m.
- Minutes of the Special Finance and Audit Committee Meeting held in the Shaw Auditorium, Vancouver Island Conference Centre, 80 Commercial Street, Nanaimo, BC, on Friday, 2021-NOV-19 at 9:00 a.m.
- Minutes of the Special Finance and Audit Committee Meeting held in the Shaw Auditorium, Vancouver Island Conference Centre, 80 Commercial Street, Nanaimo, BC, on Monday, 2021-NOV-22 at 3:23 p.m.

9. CONSENT ITEMS:

It was moved and seconded that the following items be adopted by consent:

Prior to the vote Councillor Geselbracht requested that the following Agenda Items be removed to be voted on separately:

1. 10(a)(5) – Police Support Services – Support Staff Resourcing Plan
2. 10(a)(7) – Aquatics Development Plan

(a) Special Finance and Audit Committee Recommendations 2021-NOV-19

1. Buttertubs Bridge Project

That Council remove the Buttertubs Pedestrian Bridge project from the 2022 – 2026 Financial Plan.

2. Albert and Fourth Complete Streets

That Council reduce the scope of the Fourth and Albert Complete Street Phase 2 project to Pine Street to Milton Street and increase the budget by \$400,000 in the 2022 – 2026 Financial Plan.

3. Manager, Financial Services

That Council add a Manager, Financial Services & Special Projects position to the 2022 – 2026 Financial Plan effective April 1, 2022.

4. Supervisor, Technical Support Position

That Council add a Supervisor, Technical Support position to the 2022 – 2026 Financial Plan effective April 1, 2022.

5. RCMP – Bike Patrol

That Council add 4 additional RCMP Bike Patrol members to the 2022 – 2026 Financial Plan effective April 1, 2022.

6. Parks and Trails and Natural Areas – Lead Supervisor

That Council add a Parks, Trails and Natural Areas – Lead Supervisor position to the 2022 – 2026 Financial Plan effective February 15, 2022.

7. Parks Maintenance Worker – Playgrounds

That Council add a Parks Maintenance Worker – Playgrounds position to the 2022 – 2026 Financial Plan effective April 1st, 2022.

8. National Indigenous Peoples Day and Truth and Reconciliation Day

That Council add \$60,000 in annual funding to support events for National Indigenous People Day & Truth and Reconciliation Day to the 2022 – 2026 Financial Plan.

(b) Governance and Priorities Committee Recommendations 2021-NOV-22

1. Bus Stop Shelter and Bench Strategy

That the City of Nanaimo engage with BC Transit and the Regional District of Nanaimo (RDN) on the topic of developing a long-term transit shelter deployment plan, and return to Council with a report by 2022-JAN-30.

(c) Special Finance and Audit Committee Recommendations 2021-NOV-22

That Council direct Staff to:

1. Replace department owned diesel units #317 & #318 with fleet owned CNG units.
2. Lease a CNG refuse truck to replace unit #317 until new unit arrives.
3. Shorten the life-cycle on all fleet owned units to 8 years.

The motion carried unanimously.

(d) Separately Addressed Consent Items

1. Police Support Services: Support Staff Resourcing Plan

That Council add 15 Police Support positions over the next 5 years as outlined in the ideal staffing scenario to the 2022 – 2026 Financial Plan effective April 1, 2022.

The motion carried.

Opposed: Councillor Geselbracht

2. Aquatics Development Plan

That Council add the Aquatics Development Plan to the 2022 – 2026 Financial Plan effective January 2022.

The motion carried.

Opposed: Councillors Brown, Geselbracht and Turley

10. DELEGATIONS:

(a) Pat Squire regarding Public Works, Bowen Cemetery and Stored Grave Markers

Pat Squire spoke regarding Public Works, Bowen Cemetery and stored grave markers stating that the grave markers have not been stored correctly, there has been a lack of communication between him and City Staff and he feels that the grave stones should be stored in a more respectful manner.

11. REPORTS:

(a) Development Permit Application No. DP1204 – 25 Spyglass Lookout

Introduced by Dale Lindsay, General Manager, Development Services.

- Mark Kelly spoke in support of the application and stated that the owner has enlisted professionals to ensure the development respects the environment and is a good fit for this property.

1. Alfredo Tura advised he has met with numerous specialized engineers, no negative impact to the environment is expected, the location of the cabin and it's surface area, cabin will be on pilings on a grassy area outside of the Garry Oak treed area and he has spent significant amount of time and money to create a realistic solution that respects and addresses key environmental goals.
2. Armando Tura spoke in support of the development and stated he is the supervisor of the Engineering Program at the University of Victoria and have performed civil engineering studies on this land. He stated the cabin will have a flat, green roof structure and the walkway will be screw piled to protect the environment and habitat in the area.
3. Chris Zamora spoke regarding an environmental assessment that was completed, the location and size of the cabin, location of the water and sewer line, and that no plants or trees will be removed during the construction of the property.
4. Corinne Brolewicz spoke in opposition and stated that the land was developed by Nanaimo Realty but three of the properties were never intended to be residential lots including 25 Spyglass Lookout. She stated concerns regarding, protection of the waterway, planting of non-native species of plants, and bylaw infractions.
5. Greg Herringer spoke in support and stated the owner has taken time to consult the proper professionals to ensure the development does not harm the environment on the property, replanted plants and Garry Oak trees and cabin will be built on raised on pilings.
6. Theresa van der Goes spoke in favour stating support for the location of the proposed cabin, the minimal environmental impact, sustainability in the design of the cabin, the proposal supports the Protection Island vision statement and is concurrent with the Official Community Plan.
7. Jim Harris spoke in support and stated that the owner has nurtured the plants and current Garry Oak system on the property to ensure the natural habitat remains healthy.
8. Ken Crystal spoke in support of the development and stated that the owner has ensured the walkway will not disturb the habitat or wildlife in the area, approval of the walkway by Port of Nanaimo and Department of Fisheries (DFO) and the owners are trying to mitigate any damage to the environment.
9. John Sinclair spoke in opposition and stated concerns regarding zoning, fair market price, environmental impacts and power outages affecting the sewage system. He stated that the City should purchase the property and designate it is as a park.
10. David Groves spoke in support of the development and the owner. He stated that Mr. Tura will be registering a restricting covenant on the property, which would restrict any new development and protect the existing natural habitat.

11. Beau Blanaru spoke in support, on behalf of Brian Senini, of the development and spoke regarding the legal zoning of the property, the creation of the lots in 1959, developer provided improved water and sewer connections, the development is less intrusive to the natural environment and follows the City's regulated vegetation plan.
12. Christina Nichol spoke in opposition and stated concerns regarding the setbacks and building without plans to install a septic tank.
13. Peter Rombough spoke in opposition to the development and stated concerns regarding the environment, variances setting a precedent for future applications, violation of the *Wildlife Act* and the *Heritage Act*, and if DFO has actually provided approval for this walkway.
14. James MacQuarrie spoke regarding the setbacks, environmental aspects, sea level rise, storm surges during the winter, erosion, and the potential for future electrical and raw sewage issues. He requested that the City purchase the property and designate it a protected area.
15. Norah Curtis spoke regarding concerns including the amount of time City Staff have spent with the owner of the property, the assessed value of the property, and the setbacks requested by the owner.
16. Doug Hay spoke in opposition and stated concerns regarding the sea level rise, the portion of land under water by 2050, ownership of land that will be underwater and the destruction due to sea level rise.

The Regular Council Meeting recessed at 9:22 p.m.

The Regular Council Meeting reconvened at 9:35 p.m.

It was moved and seconded that Council defer Agenda Item 12(a) – Development Permit Application No. DP1204 – 25 Spyglass Lookout to a future Council Meeting subject to further discussion, information and legal advice. The motion carried.

Opposed: *Councillors Brown, Geselbracht and Turley*

- (b) Official Community Plan Amendment Application No. OCP96 – Bowers District Master Plan

Introduced by Jeremy Holm, Director, Development Approvals.

Presentation:

1. Evan Peterson, Barefoot Planning, provided Council with a PowerPoint presentation. Highlights included:
 - Process to date, original owners are involved in the development and the vision for the property
 - Goals include creating a place where people can live, work and play, with a network of green spaces and green streets
 - Reviewed the following items included in the PowerPoint presentation:

- Concept plan and wide sidewalks, landscaped buffers and low to mid rise buildings
- Land use which includes village residential, village mixed-use, urban residential, urban mixed-use and parks and open spaces
- Transportation approach and principles and the transportation network plan
- Parks and open space plan and principles, the open space network and the blue-green strategy plan which bridges the gap between landscaping and infrastructure
- Concept illustrations that show the pathways, parks and open space, private spaces and residences
- Sustainability approach and principles, placemaking approach and principles

Delegation:

1. Bill Manners requested that Staff defer the motion stating concerns regarding previous engagement with the community, the Traffic Impact Assessment (TIA), Applecross Road missing from the TIA, timing of application, and lack of communication on the process.

It was moved and seconded that “Official Community Plan Amendment Bylaw 2021 No. 6500.045” (To include the Bowers District Master Plan as Schedule M of the “Official Community Plan Bylaw 2008 No. 6500”) pass first reading. The motion carried.
Opposed: *Councillors Armstrong, Geselbracht and Thorpe*

It was moved and seconded that “Official Community Plan Amendment Bylaw 2021 No. 6500.045” pass second reading. The motion carried.
Opposed: *Councillors Armstrong and Thorpe*

It was moved and seconded that the 2021-DEC-06 Regular Council Meeting continue past 11:00 p.m. The motion carried unanimously.

(c) Official Community Plan Amendment Application No. OCP98 - 30 Maki Road

Introduced by Jeremy Holm, Director, Development Approvals.

It was moved and seconded that “Official Community Plan Amendment Bylaw 2021 No. 6500.047” (To re-designate 30 Maki Road on the Official Community Plan Schedule A - Future Land Use Plan [Map 1] from ‘Neighbourhood’ to ‘Light Industrial;’ and to re-designate 30 Maki Road on the Chase River Neighbourhood Plan Schedule A – Future Land Use and Mobility from ‘Low-Medium Density Residential’ to ‘Service Industrial Enterprise Area’) pass first reading. The motion carried.
Opposed: *Councillor Geselbracht*

It was moved and seconded that “Official Community Plan Amendment Bylaw 2021 No. 6500.047” pass second reading. The motion carried.
Opposed: *Councillor Geselbracht*

(d) Development Permit Application No. DP1218 - 41 and 45 Haliburton Street

Introduced by Jeremy Holm, Director, Development Approvals.

It was moved and seconded that Council issue Development Permit No. DP1218 for a multi-family residential development at 41 and 45 Haliburton Street with the following variances to:

- increase the maximum allowable building height from 14.00m to 15.76m;
- reduce the minimum front yard setback for an underground parking structure from 1.8m to 0.9m; and,
- reduce the minimum refuse receptacle enclosure setback on the north property line from 3.00m to 1.45m.

The motion carried unanimously.

(e) Bylaw Notice Enforcement Amendment – Fines for Brechin Boat Ramp Facilities Regulation Bylaw

Introduced by Sheila Gurrie, Director, Legislative Services.

Brechin Boat Ramp Facilities Regulation Amendment Bylaw

It was moved and seconded that “Brechin Boat Ramp Facilities Regulation Amendment Bylaw 2021 No. 7110.01” (To remove the fine and fee schedules and update the violation and penalty language) pass first reading. The motion carried unanimously.

It was moved and seconded that “Brechin Boat Ramp Facilities Regulation Amendment Bylaw 2021 No. 7110.01” pass second reading. The motion carried unanimously.

It was moved and seconded that “Brechin Boat Ramp Facilities Regulation Amendment Bylaw 2021 No. 7110.01” pass third reading. The motion carried unanimously.

Bylaw Notice Enforcement Amendment Bylaw

It was moved and seconded that “Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.15” (To add the fine schedule associated with the Brechin Boat Ramp Facilities Regulation Bylaw) pass first reading. The motion carried unanimously.

It was moved and seconded that “Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.15” pass second reading. The motion carried unanimously.

It was moved and seconded that “Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.15” pass third reading. The motion carried unanimously.

Fees and Charges Bylaw

It was moved and seconded that “Fees and Charges Bylaw 2021 No. 7336” (To replace the fee schedule and add the Brechin Boat Ramp commercial permit fees) pass first reading. The motion carried unanimously.

It was moved and seconded that “Fees and Charges Bylaw 2021 No. 7336” pass second reading. The motion carried unanimously.

It was moved and seconded that “Fees and Charges Bylaw 2021 No. 7336” pass third reading. The motion carried unanimously.

(f) 2022 - 2026 Financial Plan Bylaw

Introduced by Laura Mercer, Director, Finance

It was moved and seconded that “Financial Plan Bylaw 2021 No. 7337” (To confirm and adopt the 2022 – 2026 Financial Plan) pass first reading. The motion carried.

Opposed: *Councillors Brown, Geselbracht and Turley*

It was moved and seconded that “Financial Plan Bylaw 2021 No. 7337” pass second reading. The motion carried.

Opposed: *Councillors Brown, Geselbracht and Turley*

It was moved and seconded that “Financial Plan Bylaw 2021 No. 7337” pass third reading. The motion carried.

Opposed: *Councillors Brown, Geselbracht and Turley*

(g) Amendment To Rates and Charges for Water

Introduced by Laura Mercer, Director, Finance.

It was moved and seconded that “Waterworks Rate and Regulation Amendment Bylaw 2021 No. 7004.17” (To set the 2022 water rates) pass first reading. The motion carried unanimously.

It was moved and seconded that “Waterworks Rate and Regulation Amendment Bylaw 2021 No. 7004.17” pass second reading. The motion carried unanimously.

It was moved and seconded that “Waterworks Rate and Regulation Amendment Bylaw 2021 No. 7004.17” pass third reading. The motion carried unanimously.

(h) Amendment to Rates and Charges for Sanitary Sewer

Introduced by Laura Mercer, Director, Finance.

It was moved and seconded that “Sewer Regulation and Charge Amendment Bylaw 2021 No. 2496.34” (To set the 2022 rates for sanitary sewer) pass first reading. The motion carried unanimously.

It was moved and seconded that “Sewer Regulation and Charge Amendment Bylaw 2021 No. 2496.34” pass second reading. The motion carried unanimously.

It was moved and seconded that “Sewer Regulation and Charge Amendment Bylaw 2021 No. 2496.34” pass third reading. The motion carried unanimously.

(i) Amendment to Bulk Water Rates for South West Extension

Introduced by Laura Mercer, Director, Finance.

It was moved and seconded that “South West Bulk Water Rate Amendment Bylaw 2021 No. 7099.10” (To set the 2022 bulk water rates for South West Extension) pass first reading. The motion carried unanimously.

It was moved and seconded that “South West Bulk Water Rate Amendment Bylaw 2021 No. 7099.10” pass second reading. The motion carried unanimously.

It was moved and seconded that “South West Bulk Water Rate Amendment Bylaw 2021 No. 7099.10” pass third reading. The motion carried unanimously.

(j) Amendment to User Fee Subsidies

Introduced by Laura Mercer, Director, Finance.

It was moved and seconded that “User Fee Subsidies Amendment Bylaw 2021 No. 7095.03” (To set the 2022 thresholds for User Fee Subsidies) pass first reading. The motion carried unanimously.

It was moved and seconded that “User Fee Subsidies Amendment Bylaw 2021 No. 7095.03” pass second reading. The motion carried unanimously.

It was moved and seconded that “User Fee Subsidies Amendment Bylaw 2021 No. 7095.03” pass third reading. The motion carried unanimously.

(k) Amendments to Rates and Charges for Municipal Solid Waste Collection

Introduced by Laura Mercer, Director, Finance.

It was moved and seconded that “Municipal Solid Waste Collection Amendment Bylaw 2021 No. 7128.13” (To update the bylaw for solid waste collection and set the rates for 2022) pass first reading. The motion carried unanimously.

It was moved and seconded that “Municipal Solid Waste Collection Amendment Bylaw 2021 No. 7128.13”, pass second reading. The motion carried unanimously.

It was moved and seconded that “Municipal Solid Waste Collection Amendment Bylaw 2021 No. 7128.13”, pass third reading. The motion carried unanimously.

(l) Province of BC Local Government Infrastructure Planning Grant Program

Introduced by Laura Mercer, Director, Finance.

It was moved and seconded that Council approve submission of an application to the Local Government Infrastructure Planning Grant program for \$10,000 for the Facility Asset Management Strategy. The motion carried unanimously.

(m) Automated Refuse Truck - Equipment Financing

Introduced by Laura Mercer, Director, Finance.

It was moved and seconded that Council approve the borrowing of up to \$975,600, with a maximum five (5) year term, through the Municipal Finance Authority's (MFA) Equipment Financing Program to purchase two (2) compressed natural gas (CNG) automated refuse trucks. The motion carried unanimously.

(n) Sandstone Master Plan Official Community Plan Amendment Bylaw 6500.044 – Second Reading As Amended

Introduced by Dale Lindsay, General Manager, Development Services.

It was moved and seconded that Council rescind second reading of "Official Community Plan Amendment Bylaw 2021 No. 6500.044". The motion carried unanimously.

It was moved and seconded that Council give second reading, as amended, to "Official Community Plan Amendment Bylaw 2021 6500.044" (to include the Sandstone Master Plan 2021 as Schedule B). The motion carried unanimously.

12. BYLAWS:

(a) "Zoning Bylaw Amendment Bylaw 2021 No. 4500.182"

It was moved and seconded that "Zoning Amendment Bylaw 2021 No. 4500.182" (To make general text and mapping amendments to "City of Nanaimo Zoning Bylaw 2011 No. 4500" be adopted. The motion carried unanimously.

(b) "Off-Street Parking Regulations Amendment Bylaw 2021 No. 7266.02"

It was moved and seconded that "Off-Street Parking Regulations Amendment Bylaw 2021 No. 7266.02" (To make general text amendments to "Off-Street Parking Regulation Bylaw 2018 No. 7266") be adopted. The motion carried unanimously.

13. ADJOURNMENT:

It was moved and seconded at 11:47 p.m. that the meeting adjourn. The motion carried unanimously.

CERTIFIED CORRECT:

CHAIR

CORPORATE OFFICER

MINUTES
SPECIAL COUNCIL MEETING (PUBLIC HEARING)
SHAW AUDITORIUM, VANCOUVER ISLAND CONFERENCE CENTRE
80 COMMERCIAL STREET, NANAIMO, BC
THURSDAY, 2021-DEC-16, AT 7:00 P.M.

Present: Mayor L. Krog, Chair
Councillor D. Bonner (joined electronically)
Councillor T. Brown (joined electronically, disconnected 7:26 p.m.)
Councillor E. Hemmens
Councillor Z. Maartman
Councillor I. W. Thorpe
Councillor J. Turley

Absent: Councillor B. Geselbracht
Councillor S. D. Armstrong

Staff: J. Holm, Director, Development Approvals
L. Rowett, Manager, Current Planning
D. LaBerge, Manager, Bylaw Services
L. Stevenson, Planner, Current Planning
S. Robinson, Planning Assistant, Current Planning
S. Snelgrove, Deputy Corporate Officer
K. Lundgren, Recording Secretary

1. CALL THE SPECIAL COUNCIL MEETING TO ORDER:

The Special Council Meeting was called to order at 7:00 p.m.

2. INTRODUCTION OF LATE ITEMS:

- (a) Agenda Item 6(a) Nuisance Properties – 403 Nicol Street, 405 Nicol Street, 515 Nicol Street – Add delegation William Curry.

3. ADOPTION OF AGENDA:

It was moved and seconded that the Agenda, as amended, be adopted. The motion carried unanimously.

4. PUBLIC HEARING REQUIREMENTS:

Mayor Krog spoke regarding the purpose of a Public Hearing, advised that Council was meeting on the traditional territory of the Snuneymuxw First Nation and advised of the standard protocols for a Public Hearing.

Mayor Krog outlined the process to accommodate members of the public who were attending in person and for those who wanted to call in to participate by phone.

Lainya Rowett, Manager, Current Planning, explained the requirements for conducting a Public Hearing.

5. PUBLIC HEARING FOR REZONING APPLICATION NO. RA467 – 440 KENNEDY STREET

(a) Rezoning Application No. RA467 – 440 Kennedy Street

Mayor Krog called the Public Hearing to order at 7:03 p.m.

Introduced by Lainy Stevenson, Planner.

Mayor Krog called for submissions from the Applicant:

No one wished to speak regarding Rezoning Application No. RA467 – 440 Kennedy Street.

Mayor Krog called for submissions from the Public:

1. Wes Lorde, Nanaimo, via telephone, spoke in favour of the application and in support of increasing density in downtown Nanaimo for environmental and economic reasons.

Mayor Krog called for submissions from the Public for a second time:

No one wished to speak regarding Rezoning Application No. RA467 – 440 Kennedy Street.

Mayor Krog called for submissions from the Public for a third and final time:

No one wished to speak regarding Rezoning Application No. RA467 – 440 Kennedy Street.

No written submissions were received prior to the start of the Special Council Meeting (Public Hearing), 2021-DEC-16, and no written submissions were received at the Public Hearing with respect to Rezoning Application RA467 – 440 Kennedy Street.

Mayor Krog announced that following the close of a Public Hearing, no further submissions or comments from the public or interested persons could be accepted by members of City Council.

Hearing no further comments from the public the Mayor declared the Public Hearing for RA467 – 440 Kennedy Street be closed at 7:11 p.m.

It was moved and seconded that "Zoning Amendment Bylaw 2021 No. 4500.194" (To permit a site-specific rezoning at 440 Kennedy Street in order to reduce the minimum lot size requirement in the R13 zone from 750m² to 500m² to facilitate a proposed boundary adjustment subdivision) pass third reading. The motion carried unanimously.

6. REPORTS:

(a) Nuisance Properties – 403 Nicol Street, 405 Nicol Street, 515 Nicol Street

Councillor Brown disconnected from the meeting at 7:26 p.m.

Dave LaBerge, Manager, Bylaw Services, informed Council of ongoing activities at 403, 405 and 515 Nicol Street. Highlights included:

- City of Nanaimo services calls related to the properties include Bylaw Services, Animal Control and RCMP requests
- History of non-compliance regarding unauthorized suites

Delegation:

1. William Curry, property owner of 403 and 515 Nicol Street, spoke regarding his properties, and on behalf of the property owner of 405 Nicol Street. He informed Council that 515 Nicol Street is currently unoccupied and he has intentions to sell the property. He provided explanation for several nuisance related calls to the properties and informed Council that he intends to get the properties cleaned up.

It was moved and seconded that Council declare 403 Nicol Street, 405 Nicol Street, and 515 Nicol Street as “nuisances” pursuant to the “Nuisance Abatement and Cost Recovery Bylaw 2019 No. 7250”, and to authorize Staff to record and charge for municipal services, including police, required to abate nuisance activity. The motion carried unanimously.

7. ADJOURNMENT:

It was moved and seconded at 7:59 p.m. that the Special Council Meeting be adjourned. The motion carried unanimously.

CHAIR

CERTIFIED CORRECT:

DEPUTY CORPORATE OFFICER

MINUTES
REGULAR COUNCIL MEETING
SHAW AUDITORIUM, VANCOUVER ISLAND CONFERENCE CENTRE,
80 COMMERCIAL STREET, NANAIMO, BC
MONDAY, 2021-DEC-20, AT 4:00 P.M.

Present: Mayor L. Krog, Chair
Councillor S. D. Armstrong (joined electronically)
Councillor D. Bonner
Councillor T. Brown (joined electronically)
Councillor B. Geselbracht
Councillor E. Hemmens
Councillor Z. Maartman
Councillor I. W. Thorpe
Councillor J. Turley (arrived 5:40 p.m.)

Staff: J. Rudolph, Chief Administrative Officer
A. Groot, A/General Manager, Parks, Recreation and Culture
D. Lindsay, General Manager, Development Services
B. Sims, General Manager, Engineering and Public Works
B. Corsan, Director, Community Development
J. Holm, Director, Development Approvals
L. Mercer, Director, Finance
P. Rosen, Director, Engineering
D. Thompson, Manager, Roads & Traffic Services
D. Johnstone, Communications & Digital Content Specialist
S. Gurrie, Director, Legislative Services
S. Snelgrove, Recording Secretary

1. CALL THE REGULAR MEETING TO ORDER:

The Regular Council Meeting was called to order at 4:00 p.m.

2. INTRODUCTION OF LATE ITEMS:

- (a) Agenda Item 2 – Procedural Motion – Add *Community Charter* Section 90(1)(e) the acquisition, disposition or expropriation of land or improvements, if the Council considers that disclosure could reasonably be expected to harm the interests of the municipality.

3. PROCEDURAL MOTION TO PROCEED IN CAMERA:

It was moved and seconded that the meeting be closed to the public in order to deal with agenda items under the *Community Charter*:

- (b) personal information about an identifiable individual who is being considered for a municipal award or honour, or who has offered to provide a gift to the municipality on condition of anonymity;

- (c) labour relations or other employee relations;
- (d) the security of property of the municipality;
- (e) the acquisition, disposition or expropriation of land or improvements, if the Council considers that disclosure could reasonably be expected to harm the interests of the municipality.
- (g) litigation or potential litigation affecting the municipality;
- (i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- (k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the Council, could reasonably be expected to harm the interests of the municipality if they were held in public; and,

Community Charter Section 90(2):

- (b) the consideration of information received and held in confidence relating to negotiations between the municipality and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party.

The motion carried unanimously.

Council moved In Camera at 4:00 p.m.

Council moved out of In Camera at 5:50 p.m.

Council recessed the Open Meeting 5:50 p.m.

Council reconvened the Open Meeting at 7:00 p.m.

2. INTRODUCTION OF LATE ITEMS (continued):

- (b) Agenda Item 8 – Presentations – Add presentation Kevan Griffith, Unitarian and St. Peter's Extreme Weather Shelters.
- (c) Add Agenda Item 15(a) – Request from Councillor Thorpe re: Local Government Leadership Academy Training.

4. APPROVAL OF THE AGENDA:

It was moved and seconded that the Agenda, as amended, be adopted. The motion carried unanimously.

5. MAYOR'S REPORT:

Mayor Krog advised:

- More COVID-19 restrictions were put in place this week and additional restrictions are expected
- The Frosty Bucket contest is back and residents are encouraged to participate and have the chance to enter to win a prize
- Winter Wonderland at Frank Crane Arena is back from December 24th and 26th to 30th. Frank Crane Arena will be transformed into a snow globe. Residents are encouraged to participate in the skating sessions. The cost is \$1 and some have free admission. Check out Nanaimo.ca for details
- The First Annual "Activate" New Year's Day event is taking place on January 1, 2022 from 12:00 p.m. to 5:00 p.m. at Beban Park
- This is the last Council meeting of 2021 and Mayor Krog expressed thanks to Council for the respectful way they carry out business, thanked Staff and noted the City is fortunate to have such dedicated public servants
- He advised some time ago he stopped speaking about COVID-19 during the Mayor's Report, but wanted to acknowledge that this is a time of year people look forward to, and although the restrictions are much less restrictive than last year, we are still in challenging times, with many in the community homeless, hungry and starving, without much hope and residents need to turn our minds to those people
- Organizations are working hard to provide comfort to our most vulnerable citizens and we aren't seeing the end of pandemic yet. There is a sense of frustration seen in the public and a lack of tolerance. Residents need to step back and remember we may be feeling bad but there is always someone else close to you suffering in ways you don't understand so try, as Dr. Henry has said, to be kind to one another, as this pandemic will be with us for a while longer. We look forward to spring and summer and on behalf of Council have a Merry Christmas and give generously

6. PRESENTATIONS:

- (a) Ms. Pat Miller, Executive Director, BC Chapter, Public Works Association of BC - The Most Creative Entry Award
-

Introduced by Bill Sims, General Manager, Engineering and Public Works.

Ms. Pat Miller, Executive Director, BC Chapter, Public Works Association of BC, presented Mayor Krog and Bill Sims, Director, Engineering and Public Works, with the Most Creative Entry Award for the City of Nanaimo's entry in the National Public Works Week Contest.

- (b) Kevan Griffith, Unitarian and St. Peter's Extreme Weather Shelters

Kevan Griffith advised he will be retiring from the Unitarian Shelter and will continue with St. Peter's shelter until the end of year. He spoke regarding the struggles he has had in his past and thanked the City for the honour of serving the people he has served.

Mayor and Council thanked Mr. Griffith for the excellent work running the shelters and expressed their deep respect for him, his leadership and his work.

7. COMMITTEE MINUTES:

The following Committee Minutes were received:

- Minutes of the Design Advisory Panel Meeting held in the Boardroom, Service and Resource Centre, 411 Dunsmuir Street, Nanaimo, BC on Thursday, 2021-SEP-09 at 5:00 p.m.
- Minutes of the Design Advisory Panel Meeting held in the Boardroom, Service and Resource Centre, 411 Dunsmuir Street, Nanaimo, BC on Thursday, 2021-OCT-14 at 5:00 p.m.
- Minutes of the Design Advisory Panel Meeting held in the Boardroom, Service and Resource Centre, 411 Dunsmuir Street, Nanaimo, BC on Thursday, 2021-OCT-28 at 5:00 p.m.
- Minutes of the Special Mayor's Leaders' Table Meeting held electronically on Friday, 2021-SEP-24 at 9:00 a.m.
- Minutes of the Special Finance and Audit Committee Meeting held in the Shaw Auditorium, Vancouver Island Conference Centre, 80 Commercial Street, Nanaimo, BC on Friday, 2021-NOV-05 at 9:00 a.m.
- Minutes of the Special Finance and Audit Committee Meeting held in the Shaw Auditorium, Vancouver Island Conference Centre, 80 Commercial Street, Nanaimo, BC on Wednesday, 2021-NOV-10 at 9:00 a.m.
- Minutes of the Environment Committee Meeting held electronically on Wednesday, 2021-DEC-01 at 5:02 p.m.

8. CONSENT ITEMS:

It was moved and seconded that the following items be adopted by consent:

(a) Environment Committee Recommendations 2021-DEC-01

1. Nanaimo's GHG (Greenhouse Gas) Targets - Recommendation 1

That Council amend the Greenhouse Gas target policy statement to read:

"That the City will leverage its available resources and authority to reduce carbon emissions beyond net Zero to reach climate emergency targets of 107% reduction by 2050 and actively advocate to senior levels of government for the necessary support to achieve this."

2. Nanaimo's GHG (Greenhouse Gas) Targets - Recommendation 2

That Council add a policy statement in the Official Community Plan to commit the City to a regular review cycle of Greenhouse Gas target performance indicators necessary to evaluate whether policy actions are having the desired effect.

3. Nanaimo's GHG (Greenhouse Gas) Targets - Recommendation 3

That zero carbon and energy efficiency building design practices be accelerated for all new construction before 2030.

4. Nanaimo's GHG (Greenhouse Gas) Targets - Recommendation 4

That Council advocate to the Provincial government for a moratorium on all new natural gas connections.

5. Nanaimo's GHG (Greenhouse Gas) Targets - Recommendation 5

That Council change the policy statement regarding Solid Waste to eliminate organic matter sent to landfill by 2030.

6. Nanaimo's GHG (Greenhouse Gas) Targets - Recommendation 6

That Council endorse the approach for policy development in regards to greenhouse gas reduction with the inclusion of stronger language.

(b) Governance and Priorities Committee Recommendations 2021-DEC-13

6. Neighbourhood Association - Governance Options

That Council direct Staff to:

1. Continue to support active neighbourhood associations that meet and maintain the following organizational criteria:
 - Have an elected executive that meets on a regular basis (at least once a year);
 - Have a membership structure (not necessarily fee paying);
 - Hold an annual general meeting, and provide a copy of the minutes to the City with updated membership numbers;
 - Keep minutes for executive and general membership meetings;
 - Engage with its membership for input prior to responding to City development referrals, such as rezoning and Official Community Plan amendments; and
 - Provide periodic updates to members related to the activities of the group.

2. Prepare a policy for Council consideration on neighbourhood association recognition and supports as identified in the report “Neighbourhood Association – Governance Options” received on 2021-DEC-13.

(c) Finance and Audit Committee Recommendations 2021-DEC-15

1. Nanaimo Lawn Bowling Club Request - Green Repairs at Bowen Park

That Council approve the allocation of up to \$20,000 from 2021 surplus project funds to support the repairs necessary at the Lawn Bowling Club.

2. Brechin Boat Ramp - Dock Replacement

That Council add to 2021 of the 2021-2025 Financial Plan a project for the dock replacement at the Brechin Boat Ramp with funding from the Brechin Boat Ramp Reserve and private contributions.

3. Port Theatre Chiller Replacement

That Council direct Staff to increase the budget for the Port Theatre Chiller Replacement project from \$712,199 to \$1,042,005 funded by a \$74,640 grant from CleanBC and \$255,166 from the Climate Action Reserve Fund.

4. Culture & Event Grants 2022 - Fund Recommendations

That Council approve 2022 Cultural Grant Funding (Operating, Project and Downtown Event) recommendations of \$510,211 as follows:

- **Applicant Name:** Crimson Coast Dance Society
Recommended: Operating \$28,002
- **Applicant Name:** L'Association des francophones de Nanaimo
Recommended: Operating \$24,000
- **Applicant Name:** Mid Island Metis Nation Association
Recommended: Operating \$15,000
- **Applicant Name:** Nanaimo Arts Council
Recommended: Operating \$16,004
- **Applicant Name:** Nanaimo Concert Band
Recommended: Operating \$8,000
- **Applicant Name:** Nanaimo Conservatory of Music
Recommended: Operating \$19,143
- **Applicant Name:** Pacific Coast Stage Company
Recommended: Operating \$18,000
- **Applicant Name:** Nanaimo Festival Heritage Theatre Society (TheatreOne)
Recommended: Operating \$52,500
- **Applicant Name:** Nanaimo Chapter of the SPEBSQSA (Tidesmen Chorus)

- *Recommended: Operating \$4,900*
- **Applicant Name:** Vancouver Island Symphony
- *Recommended: Operating \$93,000*
- **Applicant Name:** Western Edge Theatre Society
- *Recommended: Operating \$19,000*
- **Applicant Name:** A Cappella Plus Choral Society
- **Project Name:** Season of choral programs
- *Recommended: Project \$5,000*
- **Applicant Name:** Festival of Banners Association
- **Project Name:** 2022 Banner Festival
- *Recommended: Project \$5,012*
- **Applicant Name:** Friends of Nanaimo Jazz Society
- **Project Name:** Season of jazz programs
- *Recommended: Project \$10,000*
- **Applicant Name:** Island Bel Canto Singers Society
- **Project Name:** Season of choral programs
- *Recommended: Project \$1,500*
- **Applicant Name:** Island Consort Society
- **Project Name:** Season of musical programs
- *Recommended: Project \$2,000*
- **Applicant Name:** Malaspina Choral Society
- **Project Name:** Season of choral programs
- *Recommended: Project \$3,000*
- **Applicant Name:** Nanaimo African Heritage Society
- **Project Name:** Promoting Black History & Diversity in 2022
- *Recommended: Project \$5,000*
- **Applicant Name:** Nanaimo Ballroom Dance Society
- **Project Name:** Island Fantasy Ball Dance Showcase and Competition
- *Recommended: Project \$8,000*
- **Applicant Name:** Nanaimo Chamber Orchestra
- **Project Name:** Season of concert programs
- *Recommended: Project \$2,000*
- **Applicant Name:** Nanaimo Sings! Choral Festival Society
- **Project Name:** Made in Nanaimo: Songs for Sharing
- *Recommended: Project \$6,500*
- **Applicant Name:** Nanaimo Ukulele Festival Society
- **Project Name:** Nanaimo Ukulele Festival 2022
- *Recommended: Project \$1,000*
- **Applicant Name:** Vancouver Island Short Film Festival
- **Project Name:** Vancouver Island Short Film Festival 2022
- *Recommended: Project \$5,250*
- **Applicant Name:** Wordstorm Society of the Arts
- **Project Name:** Season of programs
- *Recommended: Project \$4,800*
- **Applicant Name:** Wordstorm Society of the Arts
- **Project Name:** Brand Development & Logo Redesign
- *Recommended: Project \$3,600*

2022 Downtown Event Revitalization Grants

- **Applicant Name:** Downtown Nanaimo Business Association
- **Event Name:** Corner Concerts
- *Recommended: \$5,000*
- **Applicant Name:** Downtown Nanaimo Business Association
- **Event Name:** WinterFest
- *Recommended: \$18,000*
- **Applicant Name:** Graham G. C. Villette
- **Event Name:** Jazz Above Ground - Nanaimo
- *Recommended: \$950*
- **Applicant Name:** Greater Nanaimo Chamber of Commerce
- **Event Name:** Thursday Night Street Market
- *Recommended: \$30,000*
- **Applicant Name:** Humanity in Community Foundation
- **Event Name:** Hub City Walls
- *Recommended: \$28,980*
- **Applicant Name:** Nanaimo Arts Council
- **Event Name:** Nanaimo Artwalk
- *Recommended: \$4,593*
- **Applicant Name:** Nanaimo Chapter, Federation of Canadian Artists
- **Event Name:** Nanaimo Fine Arts Show
- *Recommended: \$2,200*
- **Applicant Name:** Nanaimo Concert Band
- **Event Name:** 150th Anniversary
- *Recommended: \$3,577*
- **Applicant Name:** Nanaimo Downtown Farmers Market Society
- **Event Name:** Farmers' Market
- *Recommended: \$9,200*
- **Applicant Name:** Nanaimo Dragon Boat Festival Society
- **Event Name:** Save-On-Foods Dragon Boat Festival
- *Recommended: \$12,000*
- **Applicant Name:** Nanaimo International Jazz Festival Association
- **Event Name:** Nanaimo International Jazz Festival
- *Recommended: \$25,000*
- **Applicant Name:** Old City Quarter Association
- **Event Name:** Hallowe'en in the OCQ
- *Recommended: \$500*
- **Applicant Name:** Old City Quarter Association
- **Event Name:** Sounds of Summer in the OCQ
- *Recommended: \$5,000*
- **Applicant Name:** Old City Quarter Association
- **Event Name:** Christmas in the OCQ
- *Recommended: \$2,000*
- **Applicant Name:** Pacific Coast Stage Company
- **Event Name:** Outdoor Fringe Presentations & Drive-In Theatre
- *Recommended: \$3,000*

5. Social Planning Grants

That Council approve a total of \$75,000 for the 2022 Social Planning Grant allocations as follows:

2022 Community Vitality Grants

Organization: Lost Lake Neighbourhood Association
Project: Lost Lake Road Greenspace Enhancements
Amount: \$1,600

Organization: Nanaimo Climate Action Hub Society
Project: Community Climate Circles
Amount: \$5,000

Organization: Nanaimo Community Kitchens
Project: Cooking Out of the Box
Amount: \$4,400

Organization: South End Community Association
Project: Nanaimo South End Day
Amount: \$4,000

2022 Social Response Grants

Organization: Island Crisis Care Society
Project: Life skills for Community Connection
Amount: \$27,500

Organization: Nanaimo Foodshare
Project: Grow Nanaimo
Amount: \$16,500

Organization: Nanaimo Literacy Association
Project: Financial Literacy for Women Survivors of Domestic Violence
Amount: \$16,000

The motion carried unanimously.

9. DELEGATIONS:

- (a) Keely Freeman re: Building Permit Processing Times for Non-Profit Organizations and Essential Services (Daycares)

Keely Freeman, founder and owner of Nanaimo Innovation Academy, spoke regarding lengthy building permit processing times, the City's analysis of the backlog of permit processing, the childcare crisis in Nanaimo, challenges and restrictions to

create infant and toddler spaces and requested that Council fast track building permits for essential services such as daycare centres.

Councillor Brown disconnected from the meeting at 7:33 p.m.

10. REPORTS:

(a) Mayor's Leaders' Table - Infrastructure Ask City Projects

Bill Sims, General Manager, Engineering and Public Works, advised the report is to inform Council of the projects the City is putting forward as part of the Infrastructure Ask Working Group which is a subset of the Mayor's Leaders' Table. He noted additional projects should be brought forward through the Mayor.

(b) Lease Disposal to Loaves and Fishes Community Food Bank - 1861 East Wellington Road

Introduced by Dale Lindsay, General Manager, Development Services and Bill Corsan, Director, Community Development.

Delegation:

1. Peter Sinclair, Executive Director, Loaves and Fishes Food Bank, thanked the City for their support and encouraged Council to approve the lease in order for Loaves and Fishes to build a 25,000 square foot warehouse space. He noted that in 2020 Loaves and Fishes distributed \$6.2M worth of food and provided food to other non-profits in the community. He advised they anticipate sourcing and distributing over \$6.5M worth of food in 2021 with over \$2M going to other agencies.

Councillor Brown rejoined the meeting electronically at 7:50 p.m.

It was moved and seconded that Council approve the disposition of a 30-year lease of City-owned lands at 1861 East Wellington Road to Loaves and Fishes Community Food Bank, effective 2022-FEB-01. The motion carried unanimously.

(c) Appointment of Bylaw Enforcement Officer

Introduced by Dale Lindsay, General Manager, Development Services.

It was moved and seconded that Council appoint Kevin Kirk as a Bylaw Enforcement Officer to enforce the provisions of City of Nanaimo "Animal Responsibility Bylaw 2021 No. 7316". The motion carried unanimously.

(d) Development Variance Permit Application No. DVP429 - 108 Hawk Point Road

Introduced by Jeremy Holm, Director, Development Approvals.

Mayor Krog requested that Council hear anyone wishing to speak with respect to DVP429 – 108 Hawk Point Road.

No one in attendance wished to speak with respect to DVP429 – 108 Hawk Point Road.

It was moved and seconded that Council issue Development Variance Permit No. DVP429 at 108 Hawk Point Road with a variance to increase the maximum permitted height of a principal building with a roof pitch equal to or greater than 4:12 from 9m to 9.14m. The motion carried unanimously.

(e) Development Permit Application No. DP1224 - 5605 Cougar Ridge Place

Introduced by Jeremy Holm, Director, Development Approvals.

It was moved and seconded that Council issue Development Permit No. DP1224 at 5605 Cougar Ridge Place with the following variances to:

- increase the maximum building height from 7m to 7.25m for Unit 1;
- increase the maximum building height from 7m to 7.89m for Unit 2; and
- increase the maximum building height from 7m to 8.7m for Unit 3.

The motion carried unanimously.

(f) Development Permit Application No. DP1226 - 421 Prideaux Street

Introduced by Jeremy Holm, Director, Development Approvals.

It was moved and seconded that Council issue Development Permit No. DP1226 at 421 Prideaux Street to permit a 16 unit multi-family apartment building with the following variances:

- increase the maximum allowable building height from 10.5m to 11.4m;
- reduce the minimum required front yard setback from 3m to 2.13m;
- reduce the minimum required side yard setback from 3.0m to 1.9m from the north property line and 2.15m from the south property line;
- reduce the minimum required front yard landscape buffer from 1.8m to 0.74m and the rear yard landscape buffer from 1.8m to 0m; and
- increase the maximum allowable percentage of small car parking spaces from 40% to 50%.

The motion carried unanimously.

(g) Rezoning Application No. RA453 - 6033 and 6053 Nelson Road

Introduced by Jeremy Holm, Director, Development Approvals.

Delegation:

1. Nigel Gray, Planner and Project Manager, MacDonald Gray Consultants, provided a brief overview of the project including context, land use transition between neighbourhood and corridor and noted the design and building configurations will change and a more detailed design will occur in future

phases. He advised of Nelson Road widening, trail expansion, noted proposed zoning/land use dedications and storey height allowance for a 6 storey configuration.

It was moved and seconded that “Zoning Amendment Bylaw 2021 No. 4500.196” (To rezone 6033 and 6053 Nelson Road from the Single Dwelling Residential [R1], Duplex Residential [R4], Low Density Residential [R6] and Parks Recreation and Culture One [PRC-1] to Low Density Residential [R6] and Medium Density Residential [R8] and Parks Recreation and Culture One [PRC-1] to allow for a multi-family residential development) pass first reading. The motion carried unanimously.

It was moved and seconded that “Zoning Amendment Bylaw 2021 No. 4500.196” pass second reading. The motion carried unanimously.

It was moved and seconded that Council direct Staff to secure park and road dedication, subdivision covenant and preliminary layout approval, pedestrian covenant and statutory right-of-way, and the monetary community amenity contribution, should Council support the bylaw at third reading. The motion carried unanimously.

(h) Rezoning Application No. RA474 - 6201 Blueback Road

Introduced by Jeremy Holm, Director, Development Approvals.

It was moved and seconded that “Zoning Amendment Bylaw 2021 No. 4500.195” (To amend the Local Service Centre [CC1] zone to allow a liquor store as a site-specific use at 6201 Blueback Road) pass first reading. The motion carried unanimously.

It was moved and seconded that “Zoning Amendment Bylaw 2021 No. 4500.195” pass second reading. The motion carried unanimously.

It was moved and seconded that Council direct Staff to secure the community amenity contribution prior to adoption of “Zoning Amendment Bylaw 2021 No. 4500.195”, should Council support the bylaw at third reading. The motion carried unanimously.

(i) Rezoning Application No RA000471 - 2393 Barclay Road

Introduced by Jeremy Holm, Director, Development Approvals.

It was moved and seconded that “Zoning Amendment Bylaw 2021 No. 4500.197” (To rezone 2393 Barclay Road from Single Dwelling Residential [R1] to Single Dwelling Residential – Small Lot [R2]) pass first reading. The motion carried unanimously.

It was moved and seconded that “Zoning Amendment Bylaw 2021 No. 4500.197” pass second reading. The motion carried unanimously.

It was moved and seconded that Council direct Staff to secure the community amenity contribution and a covenant for general building design, should Council support the bylaw at third reading. The motion carried unanimously.

(j) School Site Acquisition Charge Bylaw

Introduced by Dale Lindsay, General Manager, Development Services.

It was moved and seconded that "School Site Acquisition Charge Bylaw 2021 No. 7338" (To require the payment of school site acquisition charges on developments of two and three residential units) pass first reading. The motion carried unanimously.

It was moved and seconded that "School Site Acquisition Charge Bylaw 2021 No. 7338" pass second reading. The motion carried unanimously.

It was moved and seconded that "School Site Acquisition Charge Bylaw 2021 No. 7338" pass third reading. The motion carried unanimously.

(k) Regional Growth Strategy Minor Amendment - 1329, 1333, and 1340 Kipp Road

Introduced by Dale Lindsay, General Manager, Development Services.

It was moved and seconded that Council:

1. support the proposed Regional Growth Strategy amendment; and,
2. direct Staff to forward Council's decision to the Regional District of Nanaimo's Board.

The motion carried unanimously.

(l) Regional District of Nanaimo "Regional Parks and Trails Service Area Amendment Bylaw No. 1231.08, 2021"

Introduced by Laura Mercer, Director, Finance.

It was moved and seconded that Council consent to the adoption of "Regional District of Nanaimo Regional Parks and Trails Service Area Amendment Bylaw No. 1231.08, 2021" and further, that the Regional District of Nanaimo be notified accordingly. The motion carried unanimously.

11. BYLAWS:

(a) "Financial Plan Bylaw 2021 No. 7337"

It was moved and seconded that "Financial Plan Bylaw 2021 No. 7337" (To confirm and adopt the 2022 – 2026 Financial Plan) be adopted. The motion carried.

Opposed: *Councillor Brown*

(b) "Sewer Regulation and Charge Amendment Bylaw 2021 No. 2496.34"

It was moved and seconded that "Sewer Regulation and Charge Amendment Bylaw 2021 No. 2496.34" (To set the 2022 rates for sanitary sewer) be adopted. The motion carried unanimously.

(c) "Waterworks Rate and Regulation Amendment Bylaw 2021 No. 7004.17"

It was moved and seconded that "Waterworks Rate and Regulation Amendment Bylaw 2021 No. 7004.17" (To set the 2022 water rates) be adopted. The motion carried unanimously.

(d) "User Fee Subsidies Amendment Bylaw 2021 No. 7095.03"

It was moved and seconded that "User Fee Subsidies Amendment Bylaw 2021 No. 7095.03" (To set the 2022 thresholds for User Fee Subsidies) be adopted. The motion carried unanimously.

(e) "South West Bulk Water Rate Amendment Bylaw 2021 No. 7099.10"

It was moved and seconded that "South West Bulk Water Rate Amendment Bylaw 2021 No. 7099.10" (To set the 2022 bulk water rates for South West Extension) be adopted. The motion carried unanimously.

(f) "Municipal Solid Waste Collection Amendment Bylaw 2021 No. 7128.13"

It was moved and seconded that "Municipal Solid Waste Collection Amendment Bylaw 2021 No. 7128.13" (To update the bylaw for solid waste collection and set the rates for 2022) be adopted. The motion carried unanimously.

(g) "Brechin Boat Ramp Facilities Regulation Amendment Bylaw 2021 No. 7110.01"

It was moved and seconded that "Brechin Boat Ramp Facilities Regulation Amendment Bylaw 2021 No. 7110.01" (To remove the fine and fee schedules and update the violation and penalty language) be adopted. The motion carried unanimously.

(h) "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.15"

It was moved and seconded that "Bylaw Notice Enforcement Amendment Bylaw 2021 No. 7159.15" (To add the fine schedule associated with the Brechin Boat Ramp Facilities Regulation Bylaw) be adopted. The motion carried unanimously.

(i) "Fees and Charges Bylaw 2021 No. 7336"

It was moved and seconded that "Fees and Charges Bylaw 2021 No. 7336" (To replace the fee schedule and add the Brechin Boat Ramp commercial permit fees) be adopted. The motion carried unanimously.

12. OTHER BUSINESS:

(a) Request from Councillor Thorpe re: Local Government Leadership Academy Training

It was moved and seconded that in accordance with the Council Spending and Amenities Policy, Councillor Thorpe be permitted to attend training at the Local Government Leadership Academy. The motion carried unanimously.

13. QUESTION PERIOD:

No one in attendance wished to ask questions.

14. ADJOURNMENT:

Mayor Krog and Councillor Bonner thanked Council and Staff for their hard work over the past year and wished season's greetings to all citizens.

It was moved and seconded at 8:44 p.m. that the meeting adjourn. The motion carried unanimously.

C H A I R


CERTIFIED CORRECT:

CORPORATE OFFICER

FRESHWATER PERSPECTIVES

2021 Public Benchmark Survey Results

Presented to City of Nanaimo Council
January 17, 2022 | Julie Pisani
RDN Drinking Water and Watershed Protection Program Coordinator



Background & Objectives

The main objective of the research was to gain a better understanding of community perspectives, behaviours, and priorities concerning freshwater resources in the region.

- Measure the importance of local freshwater issues
- Understand the reasons for conserving water
- Determine water conservation and preservation habits, behaviours, and actions
- Identify barriers to outdoor water conservation
- Measure awareness of local rain gardens
- Measure awareness of and involvement in the Regional District of Nanaimo's Drinking Water and Watershed Protection program
- Measure awareness of drinking water sources and watersheds
- Obtain suggestions for things the Regional District of Nanaimo can do to preserve and protect the local freshwater supply



www.rdn.bc.ca

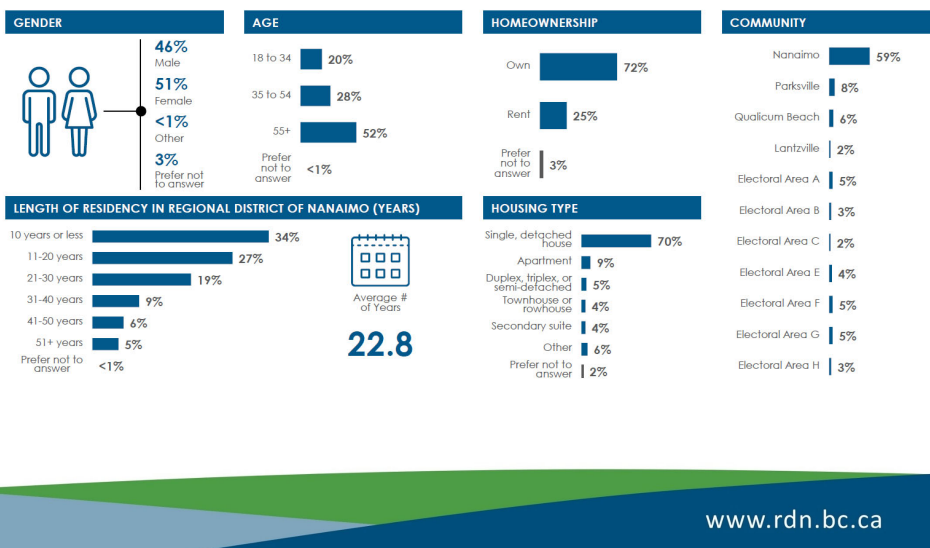
Methodology

- Mixed methods both telephone / online survey.
- Conducted between June 28 – August 2, 2021 by professional market research firm Ipsos.
- Random digit dialing by area (focus on municipalities).
- Randomized mailout with survey URL by postal code (focused on Electoral Area 10,000 sent).
- Residents who received a phone call could opt to complete online instead.
- Total 800 completed by telephone, 593 completed online.
- Aim to strike a balance across age, gender, location, demographics.



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Weighted Sample Characteristics



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Summary of Results – City of Nanaimo

- **361** surveys were completed by City of Nanaimo residents out of the total **1,393** completed across the region.



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Summary of Results – City of Nanaimo

Awareness of Drinking Water Source

- A large portion of City of Nanaimo respondents incorrectly identified their drinking water provider as the Regional District of Nanaimo (47%).
- 24% of respondents correctly identified their drinking water as coming from the municipally operated system.
- 19% report that they don't know where their drinking water comes from (the highest of all Areas/Munis).

Awareness of Watershed

- Similarly, 34% of respondents from City of Nanaimo incorrectly identified that they live in the Nanaimo River watershed.
- 25% correctly identified either Millstone River, Chase River, Departure Creek or Walley Creek as the watershed they live in.
- But the largest portion of respondents (38%) indicated that they did not know what watershed they live in.

Awareness of DWWP Program

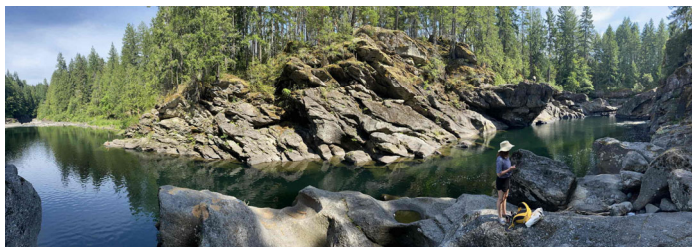
- 40% of City of Nanaimo respondents cited that they were aware of the RDN's Drinking Water and Watershed Protection program.
- 36% percent reported that they had participated in at least one DWWP activity (i.e. sharing regional water information, accessing water reports, attending an event or workshops, applying for rebates, volunteering in a local water monitoring network).

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Summary of Results – City of Nanaimo

Priority Issues

- The vast majority City of Nanaimo respondents **ranked all of the freshwater issues listed as important.**
- City of Nanaimo stood out from the other areas with the **highest response rate citing the importance of access to recreational freshwater locations.**



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Summary of Results – City of Nanaimo

Water Conservation Behaviours

- Surprisingly, the City of Nanaimo had the **lowest response rate in the region for engaging in water conservation behaviours** indoors and outdoors.
- 19% of respondents “don’t know” what the main barrier preventing them from conserving more water is.
- And, 24% state that there “are none (barriers) / is nothing” preventing them from conserving more water.

Water Protection Behaviours

- City of Nanaimo had the **highest response rate identifying awareness of rain gardens** on the property of nearby private businesses (8%).



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Summary of Results – City of Nanaimo

Suggestions for RDN

- City of Nanaimo respondents were the **most likely to cite “more public education /awareness / advertising”** as the one additional thing that RDN could do to preserve and protect local freshwater (15%).
- Most (31%) responded that they didn’t know what more the RDN could do.



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Overall Findings

Generally, the findings point to:

- positive uptake of water conservation behaviours in the region;
- some awareness and participation in RDN DWWP activities;
- widespread care for freshwater issues.

There is **more work needed to be done to enhance public literacy on their drinking water source and home watersheds** amongst residents

There is **room to improve uptake of certain water conservation behaviours** already encouraged through RDN rebate programs such as drip irrigation and soil improvements.

There is also opportunity to expand the prevalence and knowledge of rain gardens as well as increase riparian planting among streamside landowners.

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Next Steps

- This analysis will be used to help tailor DWWP program implementation to best suit the needs of and address the gaps present in the various communities.
- The 2021 survey will act as a benchmark against which follow up surveys can be compared to gauge change and progress.
- The Regional District of Nanaimo anticipates conducting a total of two follow up surveys in 5 year increments.



www.rdn.bc.ca

Thank You. Questions?

Final Report is posted online at
www.getinvolved.rdn.ca/team-watersmart

www.rdn.bc.ca

MINUTES

SPECIAL DISTRICT 68 SPORTS FIELD AND RECREATION COMMITTEE MEETING
BOARDROOM, SERVICE AND RESOURCE CENTRE,
411 DUNSMUIR STREET, NANAIMO, BC
THURSDAY, 2020-DEC-03, AT 2:00 P.M.

- Present: Councillor Thorpe, Chair
Councillor Turley
V. Craig, Vice Chair, Electoral Area B, Regional District of Nanaimo (joined electronically)
M. Swain, Mayor, District of Lantzville (joined electronically 2:02 p.m.)
K. Wilson, Director, Electoral Area A, Regional District of Nanaimo (joined electronically)
M. Young, Director, Electoral Area C, Regional District of Nanaimo (joined electronically)
- Other: T, Osborne, General Manager, Recreation and Parks, Regional District of Nanaimo (joined electronically)
- Staff: R. Harding, General Manager, Parks, Recreation and Culture
S. Snelgrove, Deputy Corporate Officer
K. Lundgren, Recording Secretary

1. CALL THE SPECIAL DISTRICT 68 SPORTS FIELD AND RECREATION COMMITTEE MEETING TO ORDER:

The Special District 68 Sports Field and Recreation Committee Meeting was called to order at 2:00 p.m.

2. APPROVAL OF THE AGENDA:

It was moved and seconded that the Agenda be adopted. The motion carried unanimously.

3. ADOPTION OF THE MINUTES:

It was moved and seconded that the Minutes of Special District 68 Sports Field and Recreation Committee Meeting held in the Boardroom, Service and Resource Centre, 411 Dunsmuir Street, Nanaimo, BC, on Monday, 2020-OCT-15 at 11:02 a.m. be adopted as circulated. The motion carried unanimously.

4. PRESENTATIONS:

(a) Sport Field Developments in Nanaimo and the REIMAGINE NANAIMO Project

Richard Harding, General Manager, Parks, Recreation and Culture provided a PowerPoint presentation. Highlights included:

- The REIMAGINE NANAIMO process and how it relates to parks and recreation

Mark Swain joined electronically at 2:02 pm.

- Six key plans under the REIMAGINE NANAIMO process include: Official Community Plan Update, Parks, Recreation and Culture Plan Update, Active Transportation Plan, Climate Action Plan, Economic Development Plan and Water Supply Strategic Plan
- REIMAGINE NANAIMO currently nearing the end of phase one, which includes community and stakeholder engagement
- Public and stakeholder engagement will continue through all phases of the process
- The Parks, Recreation and Culture (PRC) Master Plan guides the development of facilities, parks, and open spaces, as well as service delivery, to best meet the needs of the community
- Previous Parks, Recreation and Culture Master Plan was done in 2005

Committee discussion took place. Highlights included:

- REIMAGINE NANAIMO survey results inform the City of key trends and demands within the community such as emerging sports and activities
- Explanation of the Urban Forest Strategy
- Information gathered from REIMAGINE NANAIMO in regards to plans on developing forested lands

Richard Harding, General Manager, Parks, Recreation and Culture, continued his presentation as follows:

- Informed the committee of a draft Nanaimo Stadium Report that was brought to the 2020-JUL-27 Special Council meeting
- Copy of report to be sent to the committee for information
- Background on the different types of stadiums
- A municipality the size of Nanaimo would be best served by a medium sized stadium, which seats between 3,000 to 12,000 spectators
- Report provides detail regarding the key components required for the design and operations of a stadium
- Focusing on the components outside the lines of the field such as seating, spectator amenities, lighting, scoreboards and videoboards
- Report identifies potential opportunities and limitations of various sites. Sites included Caledonia Park, Beban Park, Nanaimo District Secondary School (NDSS) Field/Rotary Bowl/Serauxmen Stadium Complex
- While currently in the engagement phase, Staff are seeing a lot of support for the NDSS Field/Rotary Bowl/Serauxmen Stadium Complex
- Application for a grant opportunity to fund an artificial turf field

Committee discussion took place. Highlights included:

- Co-management agreement with School District #68 (SD68)
- Benefit of the central location of the NDSS community field includes: being on a major transit route as well as being located within the the hub of activity of the surrounding area (Nanaimo Aquatic Centre and Nanaimo Ice Centre)
- Stadium would be uncovered but will look into covering the spectator seating area
- Shared 50/50 funding between the City and SD68 and surplus going into statutory reserve. In addition, yearly contributions from both the City and the SD68 will go towards capital improvements
- Currently don't have agreement with Vancouver Island University but rent the field based on the fees and charges bylaw

Richard Harding, General Manager, Parks, Recreation and Culture, noted that updates regarding the PRC Master Plan will continuously be brought forward to the committee at future meetings.

5. OTHER BUSINESS

(a) 2015 Recreation Facility and Sports Field Survey Usage Results

Introduced by Tom Osborne, General Manager, Recreation and Parks, Regional District of Nanaimo (RDN).

- At the 2020-OCT-15 Special District 68 Sports Field and Recreation Committee meeting, questions were brought up surrounding the methodology of the Sports Field Usage research survey
- 2020 Sports Field and Usage Survey not conducted due to COVID-19 and next survey is budgeted for 2022
- Open to answer any questions or comments regarding the methodology of the survey or the associated report

Committee discussion took place. Highlights included:

- Inclusion of the stadium in the District 68 Sports Field and Recreation Services agreement
- Clarification of the agreement in regards to determining usage
- Stadium more heavily focused on spectators
- Nanaimo arenas assessed in the survey included the Nanaimo Ice Centre and the Beban Park Arena
- The inclusion of dry floor usage in arena facilities in the usage survey
- Acknowledging the work from the Recreation Staff at both the City of Nanaimo and RDN in continuously adapting to the COVID-19 protocols as well as maintaining service delivery in accordance with the provincial guidelines
- The positive impact on mental health associated with outdoor recreation and the importance of keeping parks and trail services open
- Update on the status of the pools and arenas in accordance with the provincial guidelines and the challenges around meeting the provincial guidelines

- The usage survey has been adapted and modified over the years to ensure validity

(b) Next Meeting Date

It was moved and seconded that the next meeting be held on Thursday, 2021-FEB-25 from 10:00 a.m. to 12:00 p.m. The motion carried unanimously.

6. ADJOURNMENT:

It was moved and seconded at 3:03 p.m. that the meeting adjourn. The motion carried unanimously.

C H A I R

CERTIFIED CORRECT:

CORPORATE OFFICER

MINUTES
GOVERNANCE AND PRIORITIES COMMITTEE MEETING
SHAW AUDITORIUM, VANCOUVER ISLAND CONFERENCE CENTRE,
80 COMMERCIAL STREET, NANAIMO, BC
MONDAY, 2021-NOV-22, AT 1:00 P.M.

Present: Councillor E. Hemmens, Chair
Mayor L. Krog
Councillor S. D. Armstrong
Councillor D. Bonner
Councillor T. Brown (arrived 1:14 p.m.)
Councillor B. Geselbracht
Councillor Z. Maartman
Councillor I. W. Thorpe
Councillor J. Turley (joined electronically)

Staff: J. Rudolph, Chief Administrative Officer
A. Groot, A/General Manager, Parks, Recreation and Culture
D. Lindsay, General Manager, Development Services
B. Sims, General Manager, Engineering and Public Works
T. Doyle, Fire Chief
J. LeMasurier, Deputy Fire Chief - Administration
B. Corsan, Director, Community Development
P. Rosen, Director, Engineering
D. Fournier, Manager, Municipal Infrastructure
J. Knight, Capital Project Management Specialist
S. Gurrie, Director, Legislative Services
A. Mac Coll, Steno, Legislative Services
K. Lundgren, Recording Secretary

1. CALL THE GOVERNANCE AND PRIORITIES COMMITTEE MEETING TO ORDER:

The Governance and Priorities Committee Meeting was called to order at 1:00 p.m.

2. APPROVAL OF THE AGENDA:

It was moved and seconded that the Agenda be adopted. The motion carried unanimously.

4. ADOPTION OF THE MINUTES:

It was moved and seconded that the Minutes of the Governance and Priorities Committee Meeting held in the Shaw Auditorium, Vancouver Island Conference Centre, 80 Commercial Street, Nanaimo, BC on Monday, 2021-NOV-08 at 1:00 p.m. be adopted as circulated. The motion carried unanimously.

5. AGENDA PLANNING:

(1) Governance and Priorities Committee Agenda Planning

Sheila Gurrie, Director, Legislative Services, spoke regarding the upcoming Governance and Priorities Committee (GPC) meetings. Highlights included:

- Topics coming forward to the 2021-DEC-13 GPC meeting include the Neighbourhood Association Part Three, REIMAGINE Nanaimo, and Emergency Management
- Remainder of items listed for the 2021-DEC-13 meeting will be moved to January or February of 2022

6. REPORTS:

(a) COMMUNITY WELLNESS/LIVABILITY:

1. Commercial Street Master Plan

Introduced by Dale Lindsay, General Manager, Development Services.

James Knight, Capital Project Management Specialist, spoke regarding the Commercial Street Master Plan, incorporating the needs of local businesses and enhancing opportunities for community events. He informed the Committee that open houses will be taking place November 23rd and 24th at the Vancouver Island Conference Centre.

Presentation:

1. Tyler Golly, Toole Design Group, provided the Committee with a PowerPoint presentation. Highlights included:
 - The Commercial Street project area runs from Dallas Square Park to the Hub area
 - Work will be integrated with Terminal Avenue Upgrades and Diana Krall Plaza
 - Developing a unified design vision that aligns with REIMAGINE Nanaimo
 - Creating urban realm design guidelines for the Downtown
 - Overview of the project schedule:
 - Currently in public consultation phase to create an informed design process
 - Charrette is scheduled for February of 2022
 - Further engagement regarding final design options to take place April of 2022
 - Series of stakeholder meetings to take place throughout this week

Committee discussion took place. Highlights included:

- Integration of projects to create a coherent design and vision

- Including diversity into the design

Tyler Golly, Toole Design Group, spoke regarding incorporating a Gender Based Analysis Plus Model into the design. He highlighted the importance of public participation in the consultation phases.

Councillor Brown entered the Shaw Auditorium at 1:14 p.m.

Committee discussion continued. Highlights included:

- Viewing results of the online survey and the importance of accounting for someone taking the survey multiple times
- Building on and acknowledging past work in this area

2. Information Briefing - Stormwater Utilities

Introduced by Bill Sims, General Manager, Engineering and Public Works.

Poul Rosen, Director, Engineering, provided a PowerPoint presentation. Highlights included:

- The value of the City's drainage system and considering the renewal of those assets
- Currently funding for stormwater infrastructure is drawn from general taxation
- Inequity in that some users create a higher demand on the system than others
- Historical designs may not be sufficient going forward, which increases risk
- Nanaimo increasing in density
- Missed opportunities due to lack of funding
- Watercourse quality and environmental considerations
- Staff have engaged Urban Systems Ltd. to support exploration of context and rationale for local stormwater cost-recovery models

Committee discussion took place regarding the responsibility of the developer and Development Cost Charges (DCCs).

Presentation:

1. Ehren Lee, Urban Systems Ltd., via Zoom, provided a PowerPoint presentation. Highlights included:
 - Stormwater is the rainfall, runoff and snowmelt that traverses our communities and it requires conveyance and specialized systems to properly manage it
 - Finding equitable cost recoveries
 - 1998 stormwater policy made it clear that stormwater services must be comprehensive
 - Communities with dedicated funding are able to accomplish objectives better than others

- Common technical and cost recovery focus areas:
 1. Capital costs (flood control, infrastructure renewal and natural assets and special climate change projects)
 2. Operational cost (water quality and species protection, drainage operations, regular maintenance and programming)
- There is a spectrum of utility funding choices in BC
- Historically common choice is to have the funding included in property tax rates
- Provided examples of utility funding options in other municipalities that range in complexity, cost and equitability:
 - Campbell River (basic parcel tax applied to all properties)
 - White Rock (land-class based taxes)
 - Surrey (preselected property-type classes)
 - Victoria (user pay with advance property specific characteristics)
- Strategies and consideration in choosing a stormwater cost-recovery model include five principles:
 1. Ease of administration
 2. Degree of understanding
 3. Conservation and restoration
 4. Equitability and user-pay philosophy
 5. Revenue sustainability
- Provided the Committee with a timeline for the next 18 months:
 - Allocate funds for additional research
 - Conduct engagement and develop strategic goals, objectives and approaches in the spring of 2022
 - Conduct technical and financial analysis in the summer/fall of 2022
 - Report back the interim findings to Council for direction and engagement in the fall 2022
 - Prepare business case with recommendations in 2023

Committee discussion took place. Highlights included:

- Monitoring run off and waste water
- A user fee based on land use or zoning would put more tax load on industrial or commercial properties

Poul Rosen, Director, Engineering, spoke regarding newer facilities having onsite control to mitigate run off.

Ehren Lee, Urban Systems Ltd., spoke regarding discount and rebate tools being part of the design and used as incentives.

Committee discussion continued. Highlights included:

- The approach taken by many other municipalities in BC is a parcel-tax approach

Poul Rosen, Director, Engineering, spoke regarding Victoria's model being at one end of the spectrum in terms of complexity, yet probably the most equitable. Higher complexity increases effort in administration.

Committee discussion continued. Highlights included:

- Missed opportunities of installing part of the City's storm water system during development of lots
- Grant and rebate incentives to encourage mitigating storm water going into the system
- Stormwater as its own separate utility, as opposed to being lumped in property taxes, increases attention to that utility
- Finding a balance in complexity, cost and equitability

Poul Rosen, Director, Engineering, advised that the best approach may be a land use class approach, but avoiding a level of detail that would require extra staff resources.

Committee discussion continued regarding measures taken to reduce impact on the stormwater system at the time of development

Poul Rosen, Director, Engineering, spoke regarding most current development having run off controls that reduce run off. Stormwater utilities may draw incentive for older properties to improve their run off controls.

3. Bus Stop Shelter and Bench Strategy

Introduced by Bill Sims, General Manager, Engineering and Public Works.

- The City has utilized contractor services to provide transit stop amenities and contracts are about to expire

Jamie Rose, Manager, Transportation, spoke regarding three potential options based on approaches of other municipalities.

- Option 1 – Issue a Request for Proposal (RFP) for a 25 year contract to provide transit stop services and update contract terms
- Option 2 – Maintain status quo and issue an RFP for up to a 5 year contract term
- Option 3 – Includes transitioning from third party to City owned amenities, and work with RDN and BC Transit to create City owned shelters

Committee discussion took place. Highlights included:

- Greater revenue generated through bus stop shelters than through benches
- Island weather and the necessity of shelters
- Encouraging transit use to reduce overall carbon footprint
- Concerns regarding committing to a 25 year contract

- Bus shelters often designed more for advertisement purposes than for the benefit of the transit user
- Funding through BC transit for option 3

Jamie Rose, Manager, Transportation, spoke regarding the cost of purchasing and installing a bus shelter is close to \$50,000 and BC Transit provides grants for a limited number of shelters per year.

Committee discussion continued. Highlights included:

- The importance of the City's input in determining bus shelter locations
- Conversations with the Regional District of Nanaimo and BC Transit
- Extra costs involved in cleaning and maintaining the bus shelters
- Including stipulations in the contract to allow more input from the City such as preferred locations
- Option 3 would require hiring more staff and would shift more onus on taxpayers
- The risks involved in entering a 25 year contract
- Advantages of a negotiated agreement that provides the City with more control
- Longer term contract more appealing to bidders and creates a higher degree of competition
- Victoria uses similar model with a 20 year contract
- Increasing ridership is more important than advertising dollars
- Acting before the contract expires on 2021-JUN-22

Jake Rudolph, Chief Administrative Officer, advised the Committee that Staff are hoping to issue the Request For Proposal in early January of 2022.

Committee discussion continued. Highlights included:

- Currently there are two separate contracts and the intent is to combine services under one contract
- The risk that infrastructure may be removed if the contracts lapse

It was moved and seconded that the City of Nanaimo engage with BC Transit and the Regional District of Nanaimo (RDN) on the topic of developing a long-term transit shelter deployment plan, and return to Council with a report by 2022-JAN-30. The motion carried.

Opposed: *Councillors Thorpe and Turley*

(e) REIMAGINE NANAIMO:

1. REIMAGINE Nanaimo - Phase 2 Public Engagement Summary

Introduced by Dale Lindsay, General Manager, Development Services.

Presentation:

1. Lisa Bhopalsingh, Manager, Current Planning, provided a PowerPoint presentation. Highlights included:

- Provided a summary of key learnings from the results of the phase two public engagement
- Phase two involved in depth feedback (detailed workshops and surveys)
- Pleased with the level of dedication by those providing feedback
- Received over 2000 detailed surveys
- Demographics of survey participation included:
 - Lower number of participants in the under 24 age group than the statistical population
 - Good representation across different neighbourhoods
- The majority of those responded agreed with the direction of the different goals
- A “Green Nanaimo” and an “Enabled Nanaimo” goals had the most support
- 70% of respondents felt that the draft indicators would be effective

Committee discussion took place regarding indicators being adjusted based on phase three engagements and indicators around political voice.

Lisa Bhopalsingh, Manager, Current Planning, continued the presentation. Highlights included:

- Participants ranked three different land use scenarios (current path, mobility hubs, and central focus)
- A link to the full engagement summary is attached to report as well as provided online
- The 2021-DEC-01 Environment Committee meeting will focus on climate mitigation and green house gas emissions
- Project timeline and key dates include:
 - Phase three engagement on the draft City Plan in January of 2022
 - Final revisions and partner referrals in March of 2022
 - Public hearing and plan adoption in April of 2022

Committee and Staff discussion took place. Highlights included:

- Community priorities regarding financial resilience
- Sandstone Master Plan project current proposal is more aligned with a hybrid option of scenario 3 (central focus)
- Sandstone application started before the REIMAGINE Nanaimo process was launched

7. QUESTION PERIOD:

There was no one in attendance who wished to ask questions.

8. ADJOURNMENT:

It was moved and seconded at 3:09 p.m. that the meeting adjourn. The motion carried unanimously.

C H A I R

CERTIFIED CORRECT:

CORPORATE OFFICER

DATE OF MEETING JANUARY 17, 2022
AUTHORED BY MIKE SQUIRE, MANAGER, WATER RESOURCES
SUBJECT MID-TOWN WATER SUPPLY PROJECT

OVERVIEW

Purpose of Report:

To provide Council with information regarding the Mid-Town Water Supply Project.

BACKGROUND

Due to the failure of a significant water supply main on Bowen Road, a refocused water supply capital plan was required to address current risks, and provide system resiliency. Water supply capital planning originates with the goals and objectives of the current Water Supply Strategic Plan. The previous Water Supply Strategic Plan goals were focused primarily on water quality objectives and meeting Canadian Drinking Water Guidelines. With the successful completion of the South Fork Water Treatment Plant and other associated water quality improvement and capacity projects, an update to the Water Supply Strategic Plan is now underway with a strong focus on building resilience into our core water infrastructure.

As part of REIMAGINE NANAIMO, the updated Water Supply Strategy will focus on identifying current system risks and will provide guidance to assist with:

- continued population growth,
- protecting the environment,
- managing aging infrastructure, and
- building resilience to climate change and emergencies.

The Mid-Town Water Supply Project fully meets the objectives of the Water Supply Strategy and mitigates our highest current risk to the water supply system. |

DISCUSSION

To address current risks, the first phases of the Mid-Town Water Supply Project will construct two large water pipelines to replace the vulnerable and undersized current infrastructure that transmits potable drinking water to the central and northern areas of the City. These improvements will deliver system redundancy and a dedicated water service to the Nanaimo Regional General Hospital. The project will also support sustainable objectives by utilizing gravity to convey water to the north end reservoirs and avoid costly pumping.

To expedite this project effectively and efficiently, a procurement method of negotiated requests for proposals was selected. Recent civil construction costs have escalated due to increased materials cost and labour shortages, and it is expected with early contractor engagement, such

costs can be value engineered at an earlier stage to help identify any cost savings and efficiencies in construction.

An opportunity exists to build a future trail over sections of the water supply main access road, which will further enhance the community's active transportation network. The five year capital plant will incorporate trail funding that corresponds with phases of the water main project.

CONCLUSION

The benefits of this project will be:

- Decreased water system risk and improved strength and reliance of the water supply system in the mid-town section of the City.
- Enhanced water supply operation, improved water quality and a dedicated water service main to the Nanaimo Regional General Hospital.
- Increased water supply to accommodate future growth and improved firefighting capabilities.
- Providing a dedicated water supply main route will allow for future opportunities for a multi-purpose trail for pedestrians and cyclists. This falls in line with REIMAGINE Nanaimo objectives by integrating with park and railway master plans and active transportation goals.

The current total project budget is \$28.4 million based on 30% design, and the anticipated start of construction is the summer of 2022 with the completion by spring of 2024.

SUMMARY POINTS

- The Mid-Town Water Supply Project has been expedited due to current risk.
- The current project budget is \$28.4 million; however, recent costs for construction have increased dramatically due to increased materials cost and labour shortages.
- In an effort to expedite the project and provide value added construction measures, the procurement method for this project will allow for early contractor involvement through a negotiated Request for Proposals process.

ATTACHMENTS

Attachment A - Mid-Town Water Supply Project summary presentation.

Submitted by:

Mike Squire
Manager, Water Resources |

Concurrence by:

Laura Mercer
Director, Finance

Richard Harding
General Manager, Parks, Recreation & Culture

Bill Sims
General Manager, Engineering and Public Works



MID-TOWN Water Supply Project

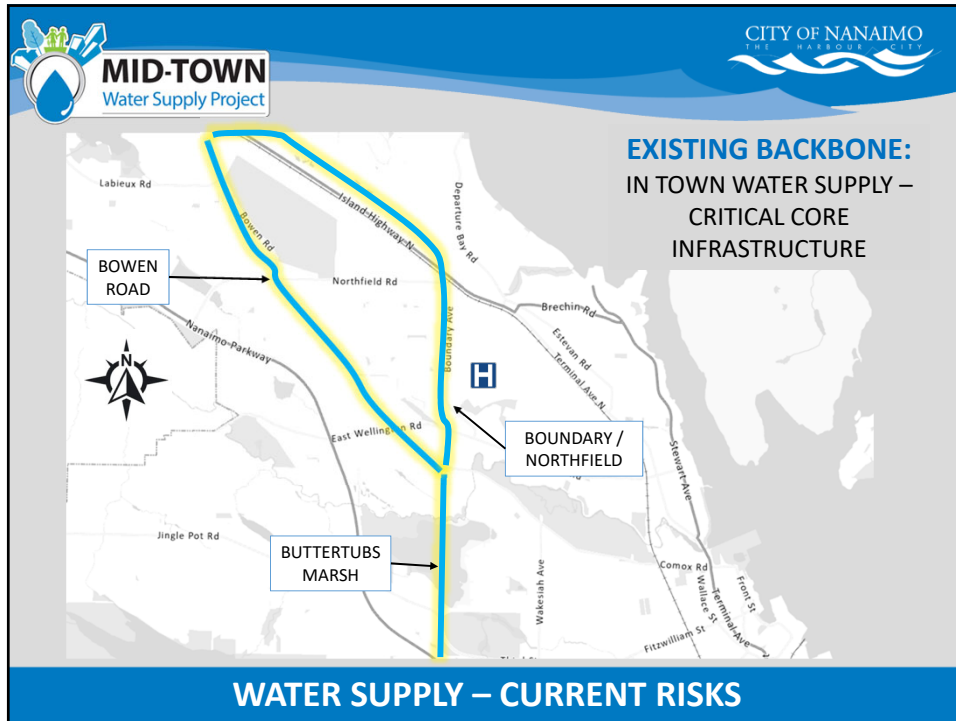
CITY OF NANAIMO THE HARBOUR CITY

Work to date.....

- Previous Water Supply Strategic Plan focused on water quality objectives.
- Refocused water supply capital plan in concert with Water Supply Strategic Plan Update / REIMAGINE Nanaimo to build system resiliency.

Managing Tap into It! your water

BUILDING A PLAN



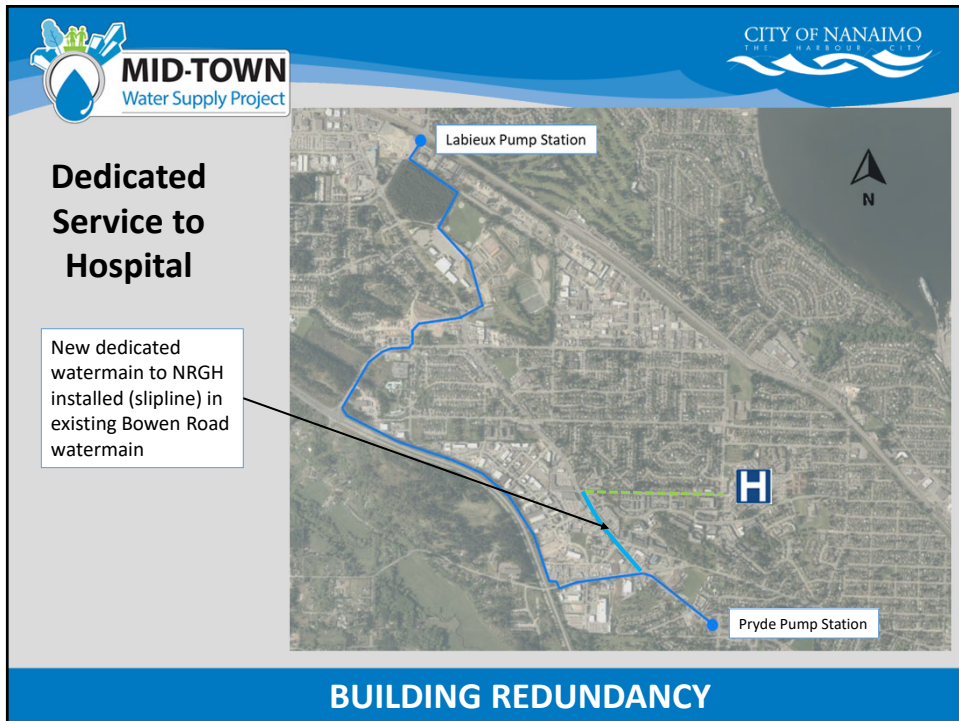
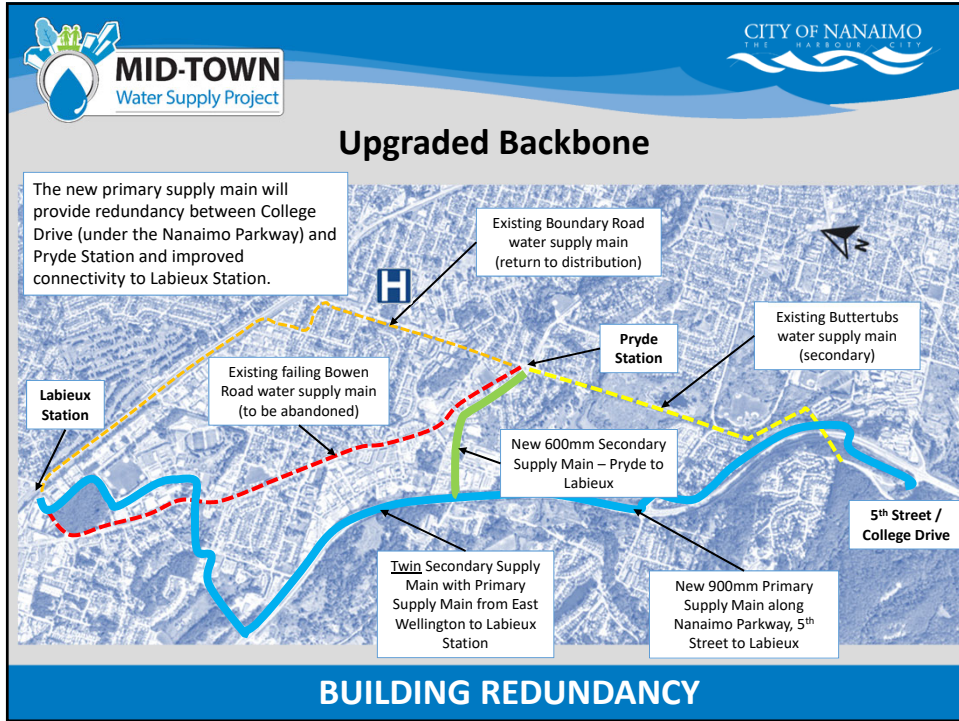
MID-TOWN
Water Supply Project

CITY OF NANAIMO
THE HARBOUR CITY

Significant Failure of a Primary Essential Service:

- April 3, 2020 - 22 million liters of water lost.
- Three reservoirs drained, Hospital + 1000's without water.
- Condition of the pipe revealed other leaks and structural failure.
- Consequence of future failures - extreme risk to water supply.

BOWEN ROAD – CURRENT RISK



 **MID-TOWN**
Water Supply Project



*Integrating with Park and
Trailway Master Plans and
Active Transportation Goals*

Opportunity to build a future trail over top of the water main which will further enhance the community's walkable pedestrian network and provide a strong connection from the E&N Trail to the Parkway Trail and connections to VIU, Westwood, Colliery Park, Buttertubs Marsh, Millstone, West Land Marsh.


BEBAN PARK CONCEPT




Future 4 m wide multi-purpose pedestrian trail


900mm & 600mm diameter watermains below trail

BUILDING OPPORTUNITY

 **MID-TOWN**
Water Supply Project





Labieux Pump Water Station



- Convert Pump Station to gravity fill north reservoirs
- Future potential for power generation

BUILDING VALUE


 **MID-TOWN**
Water Supply Project



Project Risks

- Project has been expedited due to current risk.
- Current budget is based on 30% preliminary design.
- Costs for construction have increased dramatically:
 - Supply / demand of materials costs are volatile.
 - Labour shortage.

 **MID-TOWN**
Water Supply Project



Project Costs and Future Works / Schedule

Total Project Budget : \$28.4 million

Preliminary Design Completion – Fall 2021

Negotiated Requests for Proposals (accelerated procurement and allows value added constructability review with the contractor and engineer working together prior to finalized design) – January – out for RFP

Finalized Design – Spring 2022

Construction – Summer 2022 – Spring 2024



BUILDING RESILIENCE



DATE OF MEETING JANUARY 17, 2022

AUTHORED BY Karen Robertson, Deputy City Clerk

SUBJECT ABANDONING BYLAWS NOT PROCEEDING TO ADOPTION

OVERVIEW

Purpose of Report

To formally abandon bylaws that received first three readings but will not proceed to adoption.

Recommendation

That Council abandon the following bylaws:

1. "Zoning Amendment Bylaw 2019 No. 4500.153"
2. "Official Community Plan Amendment Bylaw 2019 No. 6500.041"
3. "Traffic and Highways Regulation Amendment Bylaw 2019 No. 5000.046"
4. "Trapping Bylaw 2013 No. 7183"; and
5. "Port Theatre Borrowing Bylaw 2019 No. 7282"

BACKGROUND

Before a local government bylaw can take effect, there are legislatively required steps which include three readings, adoption, and in some cases the requirement for provincial or other approval prior to adoption. In some instances, there are reasons that a bylaw may not proceed to adoption after the bylaw received its initial three readings. Such examples include: an applicant changing their mind and withdrawing their development application; Minister approval not being granted; or in the case of the Port Theatre Borrowing Bylaw, the short term borrowing was contingent on the City's successful grant application. When these situations arise, the bylaw needs to be removed from the books so it does not stay in limbo; however, in order to do so, Council must pass a motion to formally abandon the bylaw.

There are 5 such bylaws before Council that need to be formally abandoned with the rationale outlined in the discussion section of the report.

DISCUSSION

Bylaw	Rationale for Abandonment
"Zoning Amendment Bylaw 2019 No. 4500.153" – to rezone 4392 Jingle Pot Road from Single Dwelling Residential (R1) to Mixed Uses Corridor (COR2).	Applicant withdrew their application

<p>“Official Community Plan Amendment Bylaw 2019 No. 6500.041” – to re-designate 4392 Jingle Pot Road on the Future Land Use Plan (Map 1) from Neighbourhood to Corridor.</p>	<p>Applicant withdrew their application</p>
<p>“Traffic and Highways Regulation Amendment Bylaw 2019 No. 5000.046” – to remove the time-limit and payment exemptions for vehicles displaying disabled parking permits in City parkades.</p>	<p>On 2019-SEP-16, Council referred the bylaw to staff for consideration as part of the downtown transportation and mobility study. When presented, Council did not wish to adjust any parking rates and directed staff to revisit the matter when the Traffic and Highways bylaw is rewritten.</p>
<p>“Trapping Bylaw 2013 No. 7183” – to regulate, prohibit and impose requirements respecting body-gripping traps or devices for animals and wildlife.</p>	<p>Trapping is regulated by the Province under the <i>Wildlife Act</i>. Therefore, any municipal bylaw proposing to regulate animal traps requires approval by the Minister of Forests, Lands and Natural Resources prior to adoption. In this instance, the bylaw was given first three readings and referred to the Minister who did not sign off on the bylaw. Council subsequently passed the following resolution on 2016-DEC-12 for consideration at the 2017 AVICC AGM:</p> <p><i>That Council end the inhumane use of animal traps and direct staff to submit the adopted resolution to the AVICC for consideration at the 2017 AGM.</i></p> <p>The motion was endorsed at AVICC; however, it was not supported by the UBCM under Resolution Number: B107. Without Minister approval or support from UBCM to lobby the Ministry, the bylaw cannot proceed.</p>
<p>“Port Theatre Borrowing Bylaw 2019 No. 7282” – to authorize the borrowing of up to \$4,500,000 for the construction of the Port Theatre Community Performing Arts Centre.</p>	<p>The specific funding strategy for the \$4.5 million was based on short term borrowing for a specific grant. The grant application was unsuccessful and therefore this bylaw is no longer applicable. Should the project proceed in the future, the City would revisit how the City would fund the project. Abandoning the bylaw would not negate the commitment that Council made; however, with the bylaw being on the books, it does have an effect on the City’s future borrowing limit.</p>

OPTIONS

Option 1:

That Council abandon the following bylaws:

1. “Zoning Amendment Bylaw 2019 No. 4500.153”
2. “Official Community Plan Amendment Bylaw 2019 No. 6500.041”
3. “Traffic and Highways Regulation Amendment Bylaw 2019 No. 5000.046”
4. “Trapping Bylaw 2013 No. 7183”
5. “Port Theatre Borrowing Bylaw 2019 No. 7282”

The advantage to this option is that formally abandoning the bylaws will remove them from the books.

The disadvantage is that by not formally abandoning the bylaws, they will remain in limbo and in the case of the Port Theatre Borrowing Bylaw No. 7282 having it stay at third reading will affect the City's borrowing abilities.

Option 2:

Council direction is sought.

SUMMARY POINTS

- In some instances after the initial readings of a bylaw, there are reasons that a bylaw may not proceed to adoption.
- Examples include: applicants may withdraw their development application, provincial approval may not be granted, or projects may not proceed.
- In order to prevent a bylaw from remaining in limbo, Council must pass a motion to formally abandon the bylaw.

ATTACHMENTS:

Attachment 1 – B4500.153
Attachment 2 – B6500.041
Attachment 3 – B5000.046
Attachment 4 – B7183
Attachment 5 – B7282

Submitted by:

Karen Robertson
Deputy City Clerk

Concurrence by:

Sheila Gurrie, Director of Legislative Services
Laura Mercer, Director of Finance
Dave LaBerge, Manager of Bylaw Services
Jeremy Holm, Director, Development Approvals
Dale Lindsay, Deputy CAO/General Manager,
Development Services

CITY OF NANAIMO

BYLAW NO. 4500.153

A BYLAW TO AMEND THE "CITY OF NANAIMO ZONING BYLAW 2011 NO. 4500"

WHEREAS the Council may zone land, by bylaw, pursuant to Sections 464, 465, 477, 480, 548, 469, 479, 481 and 482 of the *Local Government Act*,

THEREFORE BE IT RESOLVED that the Council of the City of Nanaimo, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. Title

This Bylaw may be cited as " Zoning Amendment Bylaw 2019 No. 4500.153".

2. Amendments

"City of Nanaimo Zoning Bylaw 2011 No. 4500" is hereby amended as follows:

By rezoning the land legally described as LOT 2, PLAN VIP35218, SECTION 4&5, WELLINGTON LAND DISTRICT (4392 Jingle Pot Road) Single Dwelling Residential (R1) to Mixed Use Corridor (COR2) as shown on Schedule A.

PASSED FIRST READING: 2019-NOV-18

PASSED SECOND READING: 2019-NOV-18

PUBLIC HEARING HELD: 2019-DEC-05

PASSED THIRD READING: 2019-DEC-05

MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE: 2019-DEC-17

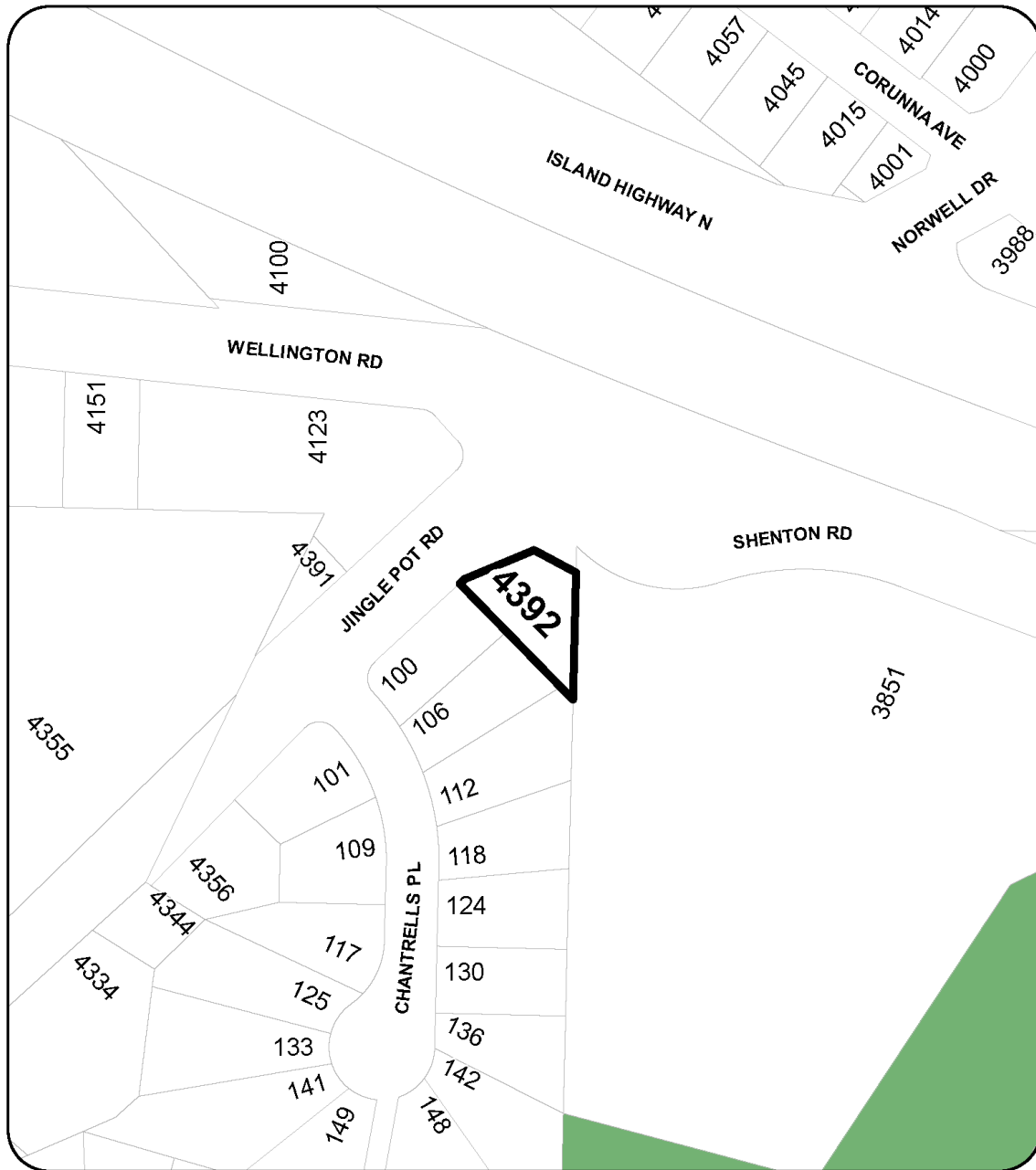
ADOPTED: _____

MAYOR

CORPORATE OFFICER

File: RA423
4392 Jingle Pot Road

SCHEDULE A



REZONING APPLICATION NO. RA000423



SUBJECT PROPERTY

Civic: 4392 JINGLE POT ROAD

Legal: LOT 2, SECTION 4, WELLINGTON DISTRICT, PLAN 35218

Document Path: V:\Source Data\Departmental Data\Eng\Pub\Wks\GIS\Projects\TEMPLATES\LOCATION_PLAN\Map\RA000423_BM.mxd

CITY OF NANAIMO
BYLAW NO. 4500.153

A BYLAW TO AMEND THE "CITY OF NANAIMO ZONING BYLAW 2011 NO. 4500"

WHEREAS the Council may zone land, by bylaw, pursuant to Sections 464, 465, 477, 480, 548, 469, 479, 481 and 482 of the *Local Government Act*,

THEREFORE BE IT RESOLVED that the Council of the City of Nanaimo, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. Title

This Bylaw may be cited as " Zoning Amendment Bylaw 2019 No. 4500.153".

2. Amendments

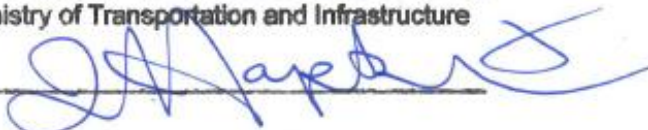
"City of Nanaimo Zoning Bylaw 2011 No. 4500" is hereby amended as follows:

By rezoning the land legally described as LOT 2, PLAN VIP35218, SECTION 4&5, WELLINGTON LAND DISTRICT (4392 Jingle Pot Road) Single Dwelling Residential (R1) to Mixed Use Corridor (COR2) as shown on Schedule A.

PASSED FIRST READING: 2019-NOV-18
PASSED SECOND READING: 2019-NOV-18
PUBLIC HEARING HELD: 2019-DEC-05
PASSED THIRD READING: 2019-DEC-05
MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE: _____
ADOPTED: _____

Approved pursuant to section 52(3)(a) of
the *Transportation Act*

this 17 day of December, 2019
Ministry of Transportation and Infrastructure



JAMIE LEIGH HOPKINS
A Commissioner for taking affidavits
within the Province of British Columbia
2100 Labadie Building - 1st Floor
4392 Jingle Pot Road

MAYOR

CORPORATE OFFICER

CITY OF NANAIMO

BYLAW NO. 6500.041

A BYLAW TO AMEND THE CITY OF NANAIMO
"OFFICIAL COMMUNITY PLAN BYLAW 2008 NO. 6500"

WHEREAS the Council of the City of Nanaimo wishes to amend the City of Nanaimo "Official Community Plan Bylaw 2008 No. 6500";

THEREFORE, BE IT RESOLVED that the Council of the City of Nanaimo, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. Title

This Bylaw may be cited as "Official Community Plan Amendment Bylaw No. 2019 No. 6500.041".

2. Amendments

MAP 1 (Future Land use Plan) of the "Official Community Plan Bylaw 2008 No. 6500" is amended as follows:

Re-designate the subject property known as LOT 2, PLAN VIP35218, SECTION 4&5, WELLINGTON LAND DISTRICT (4392 Jingle Pot Road) from 'Neighbourhood' to 'Corridor' as shown on Schedule A of this Bylaw.

PASSED FIRST READING: 2019-NOV-18
PASSED SECOND READING: 2019-NOV-18
PUBLIC HEARING HELD: 2019-DEC-05
PASSED THIRD READING: 2019-DEC-05
ADOPTED: _____

MAYOR

CORPORATE OFFICER


File: OCP00090
4392 Jingle Pot Road

SCHEDULE A



OFFICIAL COMMUNITY PLAN AMENDMENT NO. OCP00090



 Subject Property

Civic: 4392 JINGLE POT ROAD
Legal: LOT 2, SECTION 4, WELLINGTON DISTRICT, PLAN 35218

CITY OF NANAIMO

BYLAW NO. 5000.046

A BYLAW TO AMEND THE CITY OF NANAIMO
"TRAFFIC AND HIGHWAYS REGULATION BYLAW 1993 NO. 5000"

WHEREAS the Council is authorized, pursuant to Section 120 of the *Motor Vehicle Act*, the *Highway Scenic Improvement Act* and Sections 579 and 581 - 584 inclusive of the *Municipal Act*, to regulate traffic and the use of highways within the Municipality.

THEREFORE BE IT RESOLVED that the Municipal Council of the City of Nanaimo in open meeting assembled, ENACTS AS FOLLOWS:

1. Title

This Bylaw may be cited as "Traffic and Highways Regulation Amendment Bylaw 2019 No. 5000.046".

2. Amendments

"Traffic and Highways Regulation Bylaw 1993 No. 5000" is hereby amended as follows:

(1) By deleting Section 8(a) in its entirety and replacing with the following:

8(a) Notwithstanding the provisions of Section 5(2), the driver of a vehicle displaying an official "Disabled Persons Parking Placard", issued pursuant to Division 38 of the *Motor Vehicle Act* Regulations, shall not be subject to the penalties provided for the breach of that subsection.

PASSED FIRST READING: 2019-AUG-26
PASSED SECOND READING: 2019-AUG-26
PASSED THIRD READING: 2019-AUG-26
THIRD READING: RESCINDED 2019-SEP-16
ADOPTED: _____

MAYOR

CORPORATE OFFICER

CITY OF NANAIMO

BYLAW NO. 7183

A BYLAW TO REGULATE, PROHIBIT AND IMPOSE REQUIREMENTS RESPECTING THE
USE OF BODY-GRIPPING TRAPS OR DEVICES

WHEREAS the Council of the City of Nanaimo wishes to enact a bylaw to regulate, prohibit and impose requirements respecting body-gripping traps or devices for animals and wildlife;

AND WHEREAS body-gripping traps may pose a risk to the safety of animals not intended to be caught by such traps and devices and to humans;

AND WHEREAS Section 8 of the *Community Charter* empowers a Council to regulate, prohibit, and impose requirements respecting persons, property, things, and activities;

NOW THEREFORE, the Council of the City of Nanaimo in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. Title

This Bylaw may be cited as the City of Nanaimo "TRAPPING BYLAW 2013 NO. 7183".

2. Definitions

"Animal"	includes any wildlife or animal;
"Body-Gripping Trap"	means a trap or device that is designed or used to capture an animal by its body or body parts, including but not limited to, leg-hold traps, conibear traps, and snares except cage traps, box traps, nets, suitcase type traps and mouse and rat traps;
"City"	means the City of Nanaimo;
"Government of British Columbia"	has the same meaning as in the <i>Interpretation Act</i> , R.S.B.C. 1996, c. 238, as amended;
"Person"	includes an individual, association, corporation, firm, body politic, co-partnership, or similar organization and their heirs, executors, successors and assigns or other legal representatives, whether acting alone or by a servant, agent or employee;
"Wildlife"	has the same meaning as in the Definition of "Wildlife" Regulation. B.C. Reg. 427/2003, as amended; and
"Wildlife Act"	means the <i>Wildlife Act</i> , R.S.B.C. 1996, c. 488, as amended.

3. Regulations

- (a) No Person shall use or suffer or permit to be used a body-gripping trap within the city.
- (b) Section 3(a) of this Bylaw shall not apply to the use of body-gripping traps by the City and the Government of British Columbia or their employees, agents, or officers or to First Nations people residing in British Columbia exempted under the *Wildlife Act*.

4. Penalty

- (a) Every person who violates any of the provisions of this Bylaw or who suffers or permits any act or thing to be done in contravention of this Bylaw or who neglects to do or refrains from doing any act or thing which violates any of the provision of this Bylaw shall by liable to the penalties hereby imposed, and each day that such violation is permitted to exist shall constitute a separate offence.
- (b) Any person who violates any of the provisions of this Bylaw shall, upon summary conviction, be liable to a penalty of not less than \$500 and not more than \$10,000, plus the cost of the prosecution, or to a term of imprisonment not exceeding six (6) months, or both.

PASSED FIRST READING 2013-NOV-18
PASSED SECOND READING 2013-NOV-18
PASSED THIRD READING 2013- NOV-18
APPROVED BY MINISTRY OF FOREST, LANDS AND
NATURAL RESOURCES OPERATIONS _____
ADOPTED _____

MAYOR

CORPORATE OFFICER

CITY OF NANAIMO

BYLAW NO. 7282

A BYLAW TO AUTHORIZE THE BORROWING OF UP TO \$4,500,000 FOR THE
CONSTRUCTION OF THE PORT THEATRE COMMUNITY PERFORMING ARTS CENTRE

WHEREAS, under the provisions of section 178 of the *Community Charter*, the Council may contract a debt for any purpose of a capital nature, such debt not to exceed at any time a total amount equal to fifty dollars (\$50.00) multiplied by the population of the municipality and may, by bylaw, without the assent of the electors, contract the debt by borrowing and make provision for the repayment of the debt and interest thereon;

AND WHEREAS the amount of the existing obligations of the municipality authorized under said section 178 at the date hereof is \$0;

AND WHEREAS the Council deems it necessary to borrow up to \$4,500,000 for the purpose of construction of the Port Theatre Community Performing Arts Centre;

AND WHEREAS the approval of the Inspector of Municipalities has been obtained:

NOW THEREFORE, the Council of the City of Nanaimo in open meeting assembled, enacts as follows:

1. The Council is hereby authorized and empowered to borrow upon the credit of the City of Nanaimo the sum of up to \$4,500,000 at such times as the same may be required for the purpose of construction of the Port Theatre Community Performing Arts Centre and to pay interest thereon.
2. There shall be raised and levied during the currency of the obligation hereby created by a rate sufficient therefore over and above all other rates upon all land and improvements subject to taxation for general municipal purposes in the municipality for the repayment of the principal, together with the payment of interest thereon.
3. The Mayor and the officer assigned the responsibility of financial administration are hereby authorized to do all necessary acts and things to carry out the intent of this bylaw.
4. This bylaw shall take effect on the date of its adoption by Council.
5. This bylaw may be cited as "Port Theatre Borrowing Bylaw 2019 No. 7282".

PASSED FIRST READING: 2019-JAN-14

PASSED SECOND READING: 2019-JAN-14

PASSED THIRD READING: 2019-JAN-14

RECEIVED THE APPROVAL OF THE INSPECTOR OF MUNICIPALITIES

this ___ day of _____, 20__.

ADOPTED: _____

MAYOR

CORPORATE OFFICER

DATE OF MEETING JANUARY 17, 2022
AUTHORED BY KAREN ROBERTSON, DEPUTY CITY CLERK
SUBJECT OPTIONS TO BAN CONVERSION THERAPY

OVERVIEW

Purpose of Report

To provide Council with an update on the passing of Bill C-4 which makes it a criminal offence to force a person to undergo the practice of conversion therapy and how this relates to the options available for municipalities to also regulate and prohibit conversion therapy.

Recommendation

That Council receive for information the January 17, 2022 report by the Deputy City Clerk regarding options to ban conversion therapy.

BACKGROUND

On February 24, 2021, the Advisory Committee on Accessibility and Inclusiveness (ACAI) passed a motion requesting that Council immediately ban conversion therapy within the City of Nanaimo.

The Committee's motion was then forwarded to the May 15, 2021 Council meeting for consideration; however, Council wanted more information from staff prior to considering the Committee's recommendation and passed a motion directing staff to prepare a report outlining options to ban conversion therapy in the City of Nanaimo.

In exploring what options are available to the City, one must look to where the authority comes from to regulate or prohibit conversation therapy and whether any municipal regulations conflict with the jurisdictional responsibility of other levels of government. This report will outline the options and legal ramifications associated with each, as well as what steps the Federal government has taken to criminalize conversation therapy.

DISCUSSION

On October 20, 2020, Bill C-6 was introduced by the Federal government during the 43rd Parliament that proposed to criminalize conversion therapy through inclusion of new Criminal Code Offences to prohibit:

- Causing an individual to undergo conversion therapy against their will;
- Causing a child to undergo conversion therapy;
- Removing a child from Canada to undergo conversion therapy abroad;
- Receiving a financial or other material benefit from the provision of conversion therapy; and
- Advertising an offer to provide conversion therapy.

On February 24, 2021, the ACAI requested that Council pass a motion to ban conversion therapy in the City of Nanaimo and on May 15, 2021, Council asked staff for further information on what options were available.

While looking into what options may be available for the City, staff was following the progression of Bill C-6 through the summer as federal legislation does have an affect on what local governments can regulate. The Bill passed the House of Commons on June 22, 2021 and received second reading on June 2, 2021 at the Senate; however, it did not have the opportunity to clear the Senate prior to the federal election being called. As a result it died on the Order Paper when Parliament was dissolved on August 15, 2021. Having said that, a new Bill C-4 was introduced that expanded on the previously proposed Bill C-6 by protecting all Canadians – regardless of their age – from the harms of conversion therapy practices. Bill C-4 makes it illegal to:

- Cause another person to undergo conversion therapy
- Remove a minor from Canada to subject them to conversion therapy abroad
- Profit from providing conversion therapy; and
- Advertise or promoting conversion therapy.

The legislation also authorizes courts to order the seizure of conversion therapy advertisements or to order their removal from computer systems or the Internet. The Bill received Royal Assent on Wednesday, December 9, 2021.

In terms of what options are available for the City, municipalities generally have limited authority to regulate conversion therapy and any bylaw that considers prohibiting conversion therapy would be vulnerable to legal challenge given both administrative law principles and Constitutional limitations. Listed below is a general overview of the municipal authority to regulate and prohibit conversion therapy and the associated legal risks.

1. Outright Prohibition:

An outright ban of conversion therapy as requested by the Committee would likely exceed the City's authority under the *Community Charter* and *Local Government Act*. In particular, a municipal regulation cannot regulate criminal matters which are exclusively regulated by the Federal government.

Conversion therapy regulations also carry an aspect of health care regulations as it relates to negative physical and mental health outcomes for patients and healthcare is governed by the Province. Municipal bylaws that try to regulate conversion therapy as a form of therapeutic or medical treatment would also fall outside the scope of municipal legislation.

2. Business Regulations:

In June, 2018, the City of Vancouver passed a motion to include “the business of providing conversion therapy to minors” within its business prohibition bylaw. This prompted requests for other local governments to do the same. It should be noted that the reason this was an option for the City of Vancouver is because it is governed under its own Charter which expressly allows the City of Vancouver to prohibit a business by unanimous vote of Council.

In looking at whether this would be an option for the City of Nanaimo, one needs to look to the *Community Charter* which is the legislation that governs business licencing for municipalities in British Columbia (other than the City of Vancouver). While the *Community Charter* does grant broad municipal authority to regulate businesses, it does not give general power to prohibit a class of business, unless specified in the legislation. The *Charter* also defines businesses as follows:

“Business” means:

- (a) Carrying on a commercial or industrial activity or undertaking of any kind, and
- (b) providing professional, personal or other services for the purposes of gain or profit.

This would be problematic given that not all conversion therapy may occur in a business setting and religious or cultural groups may provide conversion therapy without remuneration.

3. Land Use Regulations:

Banning conversion therapy through the zoning bylaw (under the authority of the *Local Government Act*) was also explored. While the City has broad authority to zone land and prohibit “uses” within zones, it would be challenging to define “conversion therapy” as a land use. Also, at the time a land use regulation is adopted, under Section 528 of the *Local Government Act*, any existing uses would be considered lawful non-conforming uses which means any existing businesses would be grandfathered. To date, no local government in Canada has pursued this approach.

Conclusion:

Given municipalities have limited authority to regulate conversion therapy and now that Bill C-4 has passed making it a criminal offence to force a person to undergo the practice of conversion therapy, staff is providing this report for information only.

Submitted by:

Karen Robertson, Deputy City Clerk

Concurrence by:

Lynn Wark, Director, Recreation & Culture
Sheila Gurrie, Director, Legislative Services

DATE OF MEETING JANUARY 17, 2022

AUTHORED BY SHEILA GURRIE, DIRECTOR OF LEGISLATIVE SERVICES

SUBJECT APPOINTMENT OF CHIEF ELECTION OFFICER & DEPUTY CHIEF ELECTION OFFICER

OVERVIEW

Purpose of Report

To appoint a Chief Election Officer and Deputy Chief Election Officer for the purposes of conducting the 2022 City of Nanaimo election.

Recommendation

1. That Sheila Gurrie, Director of Legislative Services, be appointed as the Chief Election Officer for the City of Nanaimo 2022 General Local Election;
2. That Sky Snelgrove, Steno Coordinator, be appointed as the Deputy Chief Election Officer for the City of Nanaimo 2022 General Local Election; and
3. That despite Section 14.1 of the “Management Terms and Conditions of Employment Bylaw 2019 No 7273”, the Director of Legislative Services be compensated for any hours worked on the election (outside of the regular work day) at straight time under the terms and conditions as outlined under section 14.2 of the bylaw.

BACKGROUND

Section 58(1) of the *Local Government Act (LGA)* requires that local governments appoint a Chief Election Officer (CEO) and a Deputy Chief Election Officer (DCEO) to carry out the responsibilities for conducting the general local elections. The *LGA* also empowers the CEO to appoint election officials required for the administration and conduct of the election. In accordance with the *School Act (SA)*, the City also conducts voting to elect Trustees for School Districts 68 and 69 when requested by the School District, and cost shares some election expenses for this service.

DISCUSSION

The legislative requirement to appoint both a CEO and DCEO is in place should either the CEO or DCEO, for any reason, be unable to carry out their duties outlined in Section 59 (1) and (2) of the *LGA*.

The role of CEO has traditionally been fulfilled by the Corporate Officer and staff recommend continuing with this practice for the General Local Election. The Director of Legislative Services has served as the CEO for the 2017 by-election and referendum as well as the 2018 general election and the Steno Coordinator was appointed as the DCEO.

In 2020, Karen Robertson was hired as the Deputy City Clerk and this position would typically serve as the DCEO; however, Ms. Snelgrove expressed a desire to once again be appointed as the DCEO for the 2022 election to continue expanding her knowledge in this leadership position and both myself and Ms. Robertson support her request.

Ms. Robertson, who has previous experience in other local governments as both Chief Election Officer and Deputy Chief Election Officer, would assist and support both the CEO and DCEO and provide meeting support as Corporate Officer when the demands of the election ramp up.

In terms of work involved, preparation required for a General Local Election and voting is extensive and the appointment of election officers is considered well in advance of a scheduled election in order to provide sufficient time, and the authority, for staff to prepare for the election. It is not uncommon to spend approximately 100 hours of overtime (outside of the one's regular work day).

Compensation for the DCEO outside of regular business hours is covered either through the terms outlined in the Collective Agreement (should the person be a member of the union) or via the Management Terms and Conditions of Employment Bylaw (should the DCEO be in management). Compensation would typically be treated in the same manner for the CEO; however, section 14.1 of the bylaw exempts the Director of Legislative Services from being compensated for overtime as there is an expectation that this position attend Council and certain Committee meetings outside of regular business hours as part of the position. However, the CEO is a separate appointment, with separate duties, that will require some work to be completed outside regular hours including working the advance voting days and the general election day. Therefore, staff is seeking Council's support to waive section 14.1 of the bylaw for election purposes only and authorize compensation to the Director of Legislative Services for time spent working on the election outside of regular business hours.

Staff did review what compensation is provided to other Corporate Officers who are appointed as CEO's from medium and large sized municipalities within B.C., and of those who responded to a survey conducted by CivicInfo, compensation for the 2018 election was provided as follows:

- 9 municipalities – straight time, outside of work hours for time spent working on the election
- 2 municipalities – flat rate of \$3,000
- 2 municipalities – flat rate of \$2,500
- 2 municipalities – flat rate of \$2,250
- 2 municipalities – flat rate of \$2,000
- 3 municipalities – flat rate of \$1,500
- 1 municipality – 5 days in lieu of overtime
- 1 municipality – 4 days in lieu of overtime
- 1 municipality – 3 days in lieu of overtime
- 2 municipalities - no additional compensation

FINANCIAL IMPLICATIONS

Election staff remuneration is allotted for within the City's election budget in the Financial Plan. Subject to finalizing an agreement with the School District, there would be off-setting revenue for additional costs related to the School Board election.

Should Council support staff's recommendation, it is anticipated that the additional cost to compensate the CEO for work on the election outside of regular work hours would be approximately \$3,000 - \$4,000 with approximately 33% being covered by the School District. Additionally, tying the compensation to section 14.2 of the bylaw means that a maximum of 50% could be taken in the form of a cash payment. The remainder would need to be taken as

accumulated time off. This further minimizes the financial impact as there are no additional costs to the municipality for coverage when the Director of Legislative Services is absent as the Deputy City Clerk position covers during these times.

OPTIONS

Option 1:

1. That Sheila Gurrie, Director of Legislative Services, be appointed as the Chief Election Officer for the City of Nanaimo 2022 General Local Election;
2. That Sky Snelgrove, Steno Coordinator, be appointed as the Deputy Chief Election Officer for the City of Nanaimo 2022 General Local Election; and
3. That despite Section 14.1 of the “Management Terms and Conditions of Employment Bylaw 2019 No 7273”, the Director of Legislative Services be compensated for any hours worked on the election (outside of the regular work day) at straight time under the terms and conditions as outlined under section 14.2 of the bylaw.

The advantages to option 1 include:

- The Director of Legislative Services has previous experience as a Chief Election Officer;
- The Steno Coordinator has previously served as the DCEO and would be provided with a further opportunity to expand her knowledge in a leadership position;
- The Director of Legislative Services would be compensated for time spent working on the election outside of regular business hours similar to most municipalities in B.C.

The disadvantage to option 1 is that there would be an additional cost should Council choose to appoint the Director of Legislative Services as the CEO.

Option 2:

1. That Sheila Gurrie, Director of Legislative Services, be appointed as the Chief Election Officer for the City of Nanaimo 2022 General Local Election;
2. That Sky Snelgrove, Steno Coordinator, be appointed as the Deputy Chief Election Officer for the City of Nanaimo 2022 General Local Election; and
3. That the Director of Legislative Services be compensated for any hours worked on the election (outside of the regular work day) at the flat rate of **(insert amount here)**.

Under option 2, the CEO and DCEO appointments would be the same as in option 1 but Council could select a flat rate to compensate the Director of Legislative Services regardless of the number of hours spent working on the election outside of normal working hours.

Option 3:

1. That Sheila Gurrie, Director of Legislative Services, be appointed as the Chief Election Officer for the City of Nanaimo 2022 General Local Election; and
2. That Sky Snelgrove, Steno Coordinator, be appointed as the Deputy Chief Election Officer for the City of Nanaimo 2022 General Local Election.

Under Option 3, the CEO and DCEO appointments would be the same as options 1 and 2 but no compensation would be provided to the Director of Legislative Services for time spent working on the election outside of normal working hours.

SUMMARY POINTS

Section 58(1) of the *Local Government Act (LGA)* requires that local governments appoint a Chief Election Officer (CEO) and a Deputy Chief Election Officer (DCEO) to carry out the responsibilities for conducting the general local elections.

ATTACHMENTS:

Attachment 1 - BL7273 – Management Terms and Conditions of Employment Bylaw

Submitted by:

Sheila Gurrie,
Director of Legislative Services

Concurrence by:

Jake Rudolph
CAO

**“MANAGEMENT TERMS AND CONDITIONS OF EMPLOYMENT
AMENDMENT BYLAW”**

Consolidated Version

2021-SEP-21

Includes Amendment: 7273.01, 7273.02

CITY OF NANAIMO

BYLAW NO. 7273

A BYLAW TO ESTABLISH THE TERMS AND CONDITIONS OF EMPLOYMENT FOR
OFFICERS AND EXCLUDED EMPLOYEES OF THE CITY

A Bylaw to establish terms and conditions of employment, including the appointment and termination, of its Officers and Excluded Employees.

The Council for the City of Nanaimo in open meeting assembled ENACTS AS FOLLOWS:

1. Title

This Bylaw may be cited as "MANAGEMENT TERMS AND CONDITIONS OF EMPLOYMENT BYLAW 2019 NO. 7273".

2. Definitions

In this Bylaw, unless the context otherwise requires:

"CITY" means the City of Nanaimo.

"COUNCIL" means the Council of the City of Nanaimo.

"EXCLUDED EMPLOYEE" means an employee of the City of Nanaimo who is either a manager, or is an employee who is excluded from the unionized bargaining unit and is not an Officer as set out below.

"EMPLOYER" means the City of Nanaimo.

"OFFICER" means persons holding the offices of the City of Nanaimo as set out in Sections 3 and 4 of the City's Officers Appointment and Delegation Bylaw.

3. Remuneration

- 3.1 The salaries for Officers and Excluded Employees shall be determined by the Chief Administrative Officer in accordance with the Exempt Salary Administration Policy, as amended from time to time.

4. Appointment and Promotion (Bylaw 7273.01)

- 4.1 The Chief Administrative Officer has the authority and responsibility for hiring, termination and restructuring decisions pertaining to all staff and all departments, subject to compliance with *Community Charter* requirements.
- 4.2 Appointment to any Excluded Employee position shall be made by the Department Director responsible following consultation with the Chief Administrative Officer or designate, or by the Chief Administrative Officer.
- 4.3 Appointment to any Officer or Excluded Employee position shall be subject to a probation period of six months, which may be extended by mutual agreement.

5. Cancellation of Appointment Prior to Expiration of Probation Period

- 5.1 Where an employee of the City is appointed to any Officer or Excluded Employee position, and it is determined that the individual is to be terminated within the probation period, the following applies:
 - (a) The decision to terminate an Officer shall be made by Council in accordance with the provisions of the *Community Charter*.
 - (b) The decision to terminate an Excluded Employee shall be made by the responsible Department Director in consultation with the Chief Administrative Officer or designate.
 - (c) In either case, for internal appointments, the employee shall receive two months' notice of the City's intention to return the employee to their previous position. Should the City return the employee to their previous position prior to the expiry of two months, the City will continue to pay the employee at the salary of the higher rated position for up to two months.
 - (d) For external appointments, where prior to the expiry of the probation period the Employer decides to cancel the appointment and terminate the employment relationship, such termination shall be on one month's notice or salary in lieu of notice.
- 5.2 Section 5.1 (c) and (d) shall not apply when an Excluded Employee is terminated for cause.

6. Termination of Employment Beyond Probation Period

- 6.1 Termination of employment of any Officer having completed probation shall be made by Council in accordance with the provisions of the *Community Charter*.
- 6.2 Termination of employment of any Excluded Employee having completed probation shall be made by the responsible Department Director in consultation with the Chief Administrative Officer or designate, or by the Chief Administrative Officer.
- 6.3 Reasonable notice of termination of any Officer or Excluded Employee shall mean the length of notice or payment-in-lieu thereof as follows:
- (i) During the probation period, one month's notice or salary in lieu of notice;
 - (ii) Upon completion of the probation period, reasonable notice in accordance with common law.
- 6.4 The Council may, in its absolute discretion, grant additional pay in lieu of notice to any Officer or Excluded Employee.
- 6.5 In making exceptions, Council is to consider the judicial jurisprudence that includes length of service and other factors such as nature of position (e.g. junior vs. senior manager), age of the employee, salary and availability of comparable employment.
- 6.6 Officers and Excluded Employees are required to give the following minimum working notice of resignation from their employment:
- (i) Four weeks for Officers, and Excluded Employees at the Director level and above;
 - (ii) Three weeks for Excluded Employees at the Manager level;
 - (iii) Two weeks for all other Excluded Employees.
- 6.7 The Chief Administrative Officer may waive all or a portion of any notice period stipulated in section 6.6.

7. Suspension of Officers

The suspension of employment of any Officer shall be in accordance with the *Community Charter*.

8. Group Insurance Benefits

Officer and Excluded Employee benefits shall be provided in accordance with Schedule 'A' of this Bylaw and the terms and conditions of the group insurance policy.

9. Sick Benefits

Every Officer or Excluded Employee who is too ill or injured to attend work shall be entitled, during such illness or injury, to be absent from work on full salary using the sick leave entitlement as provided for in this Bylaw in accordance with Schedule 'A'.

10. Statutory Holidays

All Officers and Excluded Employees are entitled to receive, in addition to such special holidays as may be declared from time to time by the Employer or the Federal or Provincial governments, the following Statutory Holidays with pay:

- New Year's Day
- Family Day
- Good Friday
- Easter Monday
- Victoria Day
- Canada Day
- British Columbia Day
- Labour Day
- National Day for Truth and Reconciliation
- Thanksgiving Day
- Remembrance Day
- Christmas Day
- Boxing Day

(B7273.02)

11. Annual Vacation

11.1 Vacation entitlement for all Officers and Excluded Employees shall be as set out in Schedule 'A' of this Bylaw.

11.2 Annual vacations of Officers shall be scheduled with the approval of the Chief Administrative Officer or designate, and the responsible Department Director, if applicable. Annual vacations of Excluded Employees shall be scheduled with the approval of the responsible Department Director.

11.3 All vacation entitlements must be used by the end of March of the year following the year in which the vacation entitlements are granted, subject to the following:

- (a) Officers and Excluded Employees with vacation entitlements in excess of 20 days per year, and who have used a minimum of 15 days, have the option to:
 - (i) carry forward up to five (5) days' vacation to be reclaimed in subsequent years as time off; and/or
 - (ii) claim the balance as payment in lieu during the year in which it is granted at the rate of pay at which it is granted.
- (b) No carry forward of vacation is permitted for Officers and Excluded Employees who have vacation entitlements of 15 days or less, or who have used less than 15 days, unless prior approval is received from the Chief Administrative Officer.

- 11.4 Vacation entitlement that has not been carried forward or paid out as in 11.3 above shall be paid out by the end of March of the year following the year in which the vacation entitlement was granted, and at the rate at which it was granted.
- 11.5 Vacation accrual shall be pro-rated for partial years of service, for absences on long-term disability, or for unpaid leaves of absence.
- 11.6 The maximum carry forward vacation bank allowable at any time shall be 30 days.

12. Subrogation Rights

Officers and Excluded Employees may use sick leave credits for time lost through accidental injuries, provided that if they should later make a claim or commence an action for damages against a third party in respect of such injuries, they shall include therewith a claim for loss of wages and shall reimburse the City to the extent that they recover in respect of the claim for loss of wages. After receipt of such monies, the City shall credit the Officer or Excluded Employee with the number of sick days equivalent thereto, and any resultant gratuity days to which they may be entitled.

13. Attendance at Meetings of City Council, Committees, Commissions and Advisory Bodies

The Chief Administrative Officer, General Managers and the Director of Legislative Services are expected to attend all meetings of the City Council, and meetings of Committees, Commissions and Advisory Bodies on request, except for approved absences. Other Officers and Excluded Employees are expected to attend meetings of City Council, Committees, Commissions and Advisory Bodies as required.

14. Payment of Overtime for Officers and Excluded Employees

- 14.1 Officers and Excluded Employees, excluding the Chief Administrative Officer, General Managers and Directors, shall be compensated for overtime at straight time, to a maximum of 240 hours per year.
- 14.2 Overtime will be compensated either by way of cash payment, time off, or a combination of cash payment and time off, with a maximum of 50 percent paid out and a minimum of 50 percent taken as accumulated time off.
- 14.3 Overtime for employees in Salary Bands 1-3 (Administrative Assistants) will be paid in accordance with the CUPE Collective Agreement overtime provisions.

15. Contract of Employment

Council may enter into a contract of employment with an Officer or Excluded Employee. Where the provisions of such contracts are inconsistent with the provisions of this Bylaw, the provisions of the contracts take precedent.

16. Repeal

"MANAGEMENT TERMS AND CONDITIONS OF EMPLOYMENT BYLAW 2005 NO. 7000", and all amendments thereto, is hereby repealed.

PASSED FIRST READING: 2019-JUL-08
PASSED SECOND READING: 2019-JUL-08
PASSED THIRD READING: 2019-JUL-08
ADOPTED: 2019-JUL-22

SCHEDULE 'A'

GROUP INSURANCE BENEFITS AND LEAVE ENTITLEMENTS

1. Municipal Pension Plan

Municipal Pension Plan shall be provided in accordance with the *Public Sector Pension Plans Act* S.B.C. 1999, and amendments thereto, and the Canada Pension Plan.

2. Medical Plan

Medical coverage, including coverage for immediate family members, shall be provided by the Employer through the Medical Services Plan of B.C. at no direct cost to the Officer or Excluded Employee, to be effective on the first day of the month following the commencement of employment, or as permitted by Medical Services Plan regulations. For the purposes of this Bylaw, "immediate family members" shall mean the incumbent's spouse and dependent children.

3. Extended Health Benefits

Extended Health Benefits, including coverage for immediate family members, shall be provided by the Employer at no direct cost to the Officer or Excluded Employee, to be effective the first day of the month following the commencement of employment. Extended Health Benefits shall include 100 percent coverage for prescription drugs and a Vision Care Plan.

4. Dental Plan

A Dental Care Plan shall be provided by the Employer at no direct cost to the Officer or Excluded Employee, to be effective the first day of the month following the commencement of employment. The Dental Care Plan, which will pay up to reasonable and customary limits as outlined in the Dental Fee Guide, shall be as follows:

- (a) Plan 'A' Basic Restoration and Preventative Services - coverage to include Officer or Excluded Employee and immediate family members - 100 percent paid by the Dental Care Plan.
- (b) Plan 'B' Prosthetic Appliances and Crown and Bridge Procedures - coverage to include Officer and Excluded Employee and immediate family members - 80 percent paid by the Dental Care Plan.
- (c) Plan 'C' Orthodontics - coverage to include dependent children - 80 percent paid by the Dental Care Plan to a maximum of \$3500. (lifetime) per child.

5. Group Life Insurance

- 5.1 Group Life Insurance, including Accidental Death and Dismemberment coverage, shall be provided by the Employer at no direct cost to the Officer or Excluded Employee, to an amount equal to 2.5 times the annual salary, with a minimum amount of \$150,000 to be effective upon commencement of employment.
- 5.2 Upon termination of employment, the Officer or Excluded Employee has the option of purchasing personal life insurance by making application to the insurer within 30 days of the date of termination.

6. Long Term Disability Insurance (LTD)

- 6.1 All Officers and Excluded Employees shall be entitled to Long Term Disability Insurance to be effective on the 121st calendar day of illness, subject to any limits or conditions contained within the Plan.
- 6.2 Long Term Disability Insurance will provide wage protection at the rate of 70 percent of current salary to be effective upon the 121st day of illness. Monthly premiums to the Plan shall be paid 100 percent by the Employer.
- 6.3 Enrollment in the Plan shall be mandatory for all Officers and Excluded Employees. Officers and Excluded Employees on LTD shall have the option of having their benefits included in Schedule 'A' continue at the current cost-sharing arrangement for a period of up to two years.

7. Short Term Sick Leave

- 7.1 All Officers and Excluded Employees shall accumulate sick leave credits at the rate of one and one-half (1½) working days per month, cumulative to 120 work days (168 calendar days) to be used towards sick leave. Officers and Excluded Employees using earned sick leave credits shall be paid full salary.
- 7.2 Any unused annual sick leave standing to the credit of an Officer or Excluded Employee at the end of a calendar year shall be accrued to his/her credit to a maximum of 120 workdays.
- 7.3 Paid sick leave in excess of accrual may be granted in exceptional circumstances, if approved by the Chief Administrative Officer or designate.
- 7.4 Officers or Excluded Employees with a minimum of five (5) years continuous service, upon retirement, shall be paid a gratuity for the unused balance of sick leave, if any, due them at that time up to a maximum of 60 days. In the event of death of the Officer or Excluded Employee before retirement, a gratuity based on the unused balance of sick leave shall be paid to the Employee's named beneficiary or estate.

8. Annual Vacation

8.1 Subject to any special arrangement made at the time of appointment which must be approved by the Chief Administrative Officer, annual vacations shall be granted to Officers and Excluded Employees based on total unbroken City service as follows:

- a) During first calendar year of employment..... 20 days (pro-rated)
- b) During second to fourth calendar years of employment . 20 days
- c) During fifth to ninth calendar years of employment..... 25 days
- d) During 10th to 19th calendar years of employment..... 30 days
- e) During 20th to 29th calendar years of employment..... 35 days
- f) During 30th or greater calendar years of employment 40 days

8.2 The Chief Administrative Officer, General Managers, and the Director of Legislative Services shall receive two additional weeks of vacation entitlement in recognition of overtime incurred.

8.3 Other Directors and the Fire Chief shall receive one additional week of vacation entitlement in recognition of overtime incurred.

9. Leave of Absence

9.1 Leave of Absence without pay may be granted to all Officers and Excluded Employees for reasonable periods, with the prior approval of the Chief Administrative Officer or designate, and the responsible Department Director, if applicable.

9.2 Leave of Absence with pay may be granted for compassionate reasons, with the prior approval of the Chief Administrative Officer or designate, and the responsible Department Director, if applicable.

9.3 Premium payments for Medical Services Plan, Extended Health and Dental benefits for Officers or Excluded Employees on Leave of Absence without pay shall be the sole responsibility of the Officer or Excluded Employee. Benefits based on active service will be suspended during the leave of absence.

10. Maternity/Adoption and Parental Leave

10.1 Officers and Excluded Employees, in the case of the natural/adopting mother or natural/adopting father, are entitled to a combined maternity/parental leave without pay for the total number of weeks dictated by the *Employment Standards Act*, as amended from time to time, before or after the birth or adoption of the child of the Officer or Excluded Employee.

10.2 Maternity or adoption leave may be extended up to a maximum of one additional year for health reasons of the mother, or newborn child.

10.3 Premium payments for all benefits shall continue to be paid by the Employer for Officers and Excluded Employees on maternity/adoption or parental leave.

11. Jury Duty

Any Officer or Excluded Employee who is summoned to perform Jury Duty shall be excused from attendance for work while performing such duties and shall be entitled to his or her full pay provided that he or she pays to the City all Jury fees to which he or she is entitled, except transport, accommodation and meal expenses.

DATE OF MEETING [January 17, 2022]

AUTHORED BY [CALEB HORN, PLANNER, CURRENT PLANNING]

**SUBJECT [DEVELOPMENT PERMIT APPLICATION NO. DP001204 –
25 SPYGLASS LOOKOUT]**

OVERVIEW

Purpose of Report

[To present for Council’s consideration, a development permit application for a single residential dwelling within the aquatic setback at 25 Spyglass Lookout.]

Recommendation

[That Council issue Development Permit No. DP1204 at 25 Spyglass Lookout with the following variances to:

- reduce the minimum required watercourse setback from the natural boundary of the sea for a single residential dwelling from 15.0m to 6.4m;
- reduce the minimum required watercourse setback from the natural boundary of the sea for above-ground servicing from 15.0m to 0.0m; and
- reduce the minimum required number of off-street parking spaces from 2 to 0.]

BACKGROUND

[A development permit application, DP1204, was received from Alfredo and Armando Tura to permit a single residential dwelling within the aquatic setback at 25 Spyglass Lookout. This application was previously considered by Council on 2021-DEC-06 and was deferred to a future Council meeting.

An earlier development permit, DP274, for a larger dwelling 0m from the sea was denied by Council in November 2004. A more recent development permit application, DP1121, from the current owners was denied by Council in April 2019. Compared to the 2019 proposal, the current proposal has a consistent setback and comparable building footprint with more sensitive design.

Subject Property and Site Context

<i>Location</i>	The subject property is located on the west side of Protection Island at the end of Spyglass Lookout, a no-exit lane on the west side of Colvilleton Trail.
<i>Lot Area</i>	2,401m ²
<i>Zoning</i>	R3 – Island Residential
<i>Official Community Plan (OCP)</i>	Map 1 – Future Land Use Designation – Neighbourhood Map 3 – Development Permit Area DPA No. 2 – Environmentally Sensitive Areas

The subject property is currently undeveloped and consists of an islet in the Nanaimo Harbour attached by a sandy spit (a tombolo) to Protection Island. The property is primarily in a natural state with native trees and meadows. The current property boundaries were created when Protection Island was surveyed and subdivided in 1960. A more recent survey (see Attachment D) has established the present natural boundary of the sea and demonstrates the nature of the property as an islet cut off from Protection Island at the highest tides.

Surrounding land uses on Protection Island are existing single residential dwellings with both seasonal and permanent residents, parks (including Captain Morgan Park and Captain Flint Park), and a small number of undeveloped lots.

DISCUSSION

Proposed Development

The applicant is proposing to construct a single-storey residential dwelling approximately 78m² in floor area on the lot as a cabin for seasonal use. The proposed dwelling would be located on the height of land (approximately 3m above sea level) on the south portion of the lot to minimize impacts on natural ecosystems and to avoid any tree removal. The dwelling will be elevated on pilings above the height of land in order to account for the future Flood Construction Level (FCL), and the underside of the dwelling will be screened with lattice. Further information through a geotechnical assessment will be required at the detailed design stage to confirm the necessary FCL, and the applicant has demonstrated that the proposed design will follow the Provincial guidelines for sea level rise.

Pedestrian access to the property would be provided by a 1.2m-wide elevated walkway across the bay separating the islet from the end of Spyglass Lookout, and is proposed to connect to an existing footpath on the island that will lead to the proposed dwelling. No access would be provided across the tombolo, which would be left in a natural state. The elevated walkway will require approval from the Nanaimo Port Authority (NPA) for a water lot lease. The application was referred to the NPA and no concerns have been identified. The elevated walkway will function similarly to existing walkways connected to floating docks on Protection Island.

Site servicing (water and sanitary sewer) is required by BC Building Code for the proposed dwelling. A sanitary effluent pump is proposed below the dwelling. All servicing will be provided above ground on pipe supports and attached to the elevated walkway across the bay to connect with existing services at the end of Spyglass Lookout. Preliminary servicing plans have been reviewed and deemed acceptable by City Staff, with the plans to be finalized at the detailed design stage.

The subject property is zoned R3 – Island Residential, which allows a single residential dwelling. Servicing is provided within the Spyglass Lookout road dedication to the eastern property line, and the lot was originally created for the purpose of developing a seasonal dwelling; however, the lot has remained vacant to date. The maximum permitted Floor Area Ratio (FAR) in the R3 zone is 0.55, and the proposed FAR equals 0.03. Notwithstanding the variances identified in the following section of this report, the proposed development meets all other requirements in the R3 zone.

The applicant has identified a number of changes that have been made to the proposal since the previous development concept (DP1121) considered by Council, as summarized in the table below:

	Current Proposal (DP1204)	Previous Proposal (DP1121)
<i>Size of Dwelling</i>	The proposed dwelling has a footprint of 78m ² and is sited 6.4m from the natural boundary of the sea. The current building plans are more informed and detailed than the previous concept, and a slight increase in footprint will create a viable dwelling unit floor area.	The proposed dwelling had an approximate footprint of 50m ² and was sited 6.4m from the natural boundary of the sea.
<i>Access</i>	Pedestrian-only access to the property is proposed via a 1.2m-wide elevated walkway. This proposed access is less intrusive on existing natural ecosystems and avoids the tombolo.	Pedestrian-only access to the property was proposed via an at-grade walkway across the tombolo, which could have had localized impacts on vegetation.
<i>Servicing</i>	Site servicing is proposed above ground, with supports spaced 3m apart on the islet, and attached to the side of the elevated walkway. This proposal does not require trenching.	Site servicing was proposed through a trench across the bay from Protection Island and across the islet.
<i>Protected Area</i>	A Section 219 covenant is proposed to protect a portion of the property. The covenant will ensure that no disturbance occurs to the existing natural ecosystems within the +/- 593m ² area identified on Attachment D.	No additional protected area was proposed.
<i>Vegetation Management</i>	A vegetation management plan will be secured as a condition of the development permit, with bonding held for a three-year maintenance period after construction has completed, during which time natural area restoration will occur.	No vegetation management was proposed.

Development Permit Area for Environmentally Sensitive Areas

The subject property falls within the Development Permit Area for Environmentally Sensitive Areas (DPA2) and a development permit is required prior to any development on site. In order to address the DPA2 guidelines, an environmental assessment is required to be prepared by a Qualified Environmental Professional (QEP) to identify the environmentally-sensitive areas and determine the appropriate buffers to maintain them. The environmental assessment report submitted in support of this application has been reviewed and accepted by Staff.

The QEP identified two natural ecosystems existing on site: a coastal saltmarsh ecosystem on the tombolo and the northern portion of the lot, and a Garry oak ecosystem in the centre of the

lot (see Attachment G). A previously disturbed area and grass meadow occupy the southern portion of the lot where the dwelling is proposed. To ensure the proposal meets the DPA2 guidelines and does not negatively impact the environmentally-sensitive areas, the QEP provided a number of recommendations that will be secured as conditions of the development permit (see Attachment A). The proposed conditions include a rare plant survey, restrictions on the storage of construction materials, and requirements for construction methods.

In addition to these conditions, the applicant is proposing to protect the northern portion of the lot through a Section 219 covenant registered on title prior to building permit issuance. No disturbance would be permitted in the covenanted area, except for habitat restoration, and this area will be delineated by permanent fencing.

A vegetation management plan prepared by the QEP has also been submitted by the applicant. As a condition of the development permit, the applicant will be required to maintain the property in accordance with the vegetation management plan, including the restoration of natural areas and removal of invasive species. Security will be held for a three-year maintenance period.

Proposed Variances

Minimum Watercourse Setback

The minimum watercourse (aquatic) setback is 15.0m from the natural boundary of the sea. The applicant is proposing to construct a structure 6.4m from the natural boundary of the sea; a requested variance of 8.6m. The applicant is also requesting to provide servicing to the elevated walkway at 0m from the natural boundary of the sea; a requested variance of 15m. No variance is required for the elevated walkway below the present natural boundary of the sea.

Given the irregular shape of the subject property, there is no opportunity for a building envelope outside of the aquatic setback. A number of design measures have been proposed to ensure minimal impacts within the aquatic setback, including but not limited to, limiting the size of the proposed dwelling; raising the floor elevation above the ground to minimize impacts on existing root systems; providing pedestrian-only access via an elevated walkway across the bay to avoid foot traffic walking through natural ecosystems on site; and installing above-ground servicing to minimize soil disturbance on site.

The proposed development addresses the DPA2 guidelines and Staff support the proposed aquatic setback variances with the conditions that the site be developed in accordance with the QEP recommendations. In the two years since the previous development permit proposal, the applicant has worked with the QEP and professional engineer to further minimize impacts within the aquatic setback and disturb only a small portion of the lot (<15%). The current proposal has been determined to be the most sensitive option and would allow limited development of the property under the existing R3 zoning for a dwelling unit with minimal impact.

Minimum Required Parking

The minimum required off-street parking for a single residential dwelling is two parking spaces. The applicant is proposing to provide no off-street parking; a requested variance of two parking spaces.

Private vehicles are not prevalent on Protection Island, and most residents commute on foot or by golf cart around the island, and by boat to access Downtown Nanaimo. Providing parking on site would not be viable given the environmental and physical constraints, and any proposal to provide vehicle parking would have an unnecessary impact on existing natural ecosystems. Parking demand is not anticipated given the size of the dwelling, the intended use for a seasonal cabin, and accessibility of the site by boat. While the property is not easily accessible by private vehicle, off-site parking is also available within the Spyglass Lookout right-of-way.

Staff support the proposed parking variance.

OPTIONS

1. That Council issue Development Permit No. DP1204 at 25 Spyglass Lookout with the following variances to:
 - a) reduce the minimum required watercourse setback from the natural boundary of the sea for a single residential dwelling from 15.0m to 6.4m;
 - b) reduce the minimum required watercourse setback from the natural boundary of the sea for above-ground servicing from 15.0m to 0.0m; and
 - c) reduce the minimum required number of off-street parking spaces from 2 to 0.
 - Advantages: The property owners will be permitted to construct a cabin on the property under the existing R3 zoning while minimizing impacts to the natural environment, and the City will be able to enforce conditions through the development permit.
 - Disadvantages: A small portion of the lot will be developed within the aquatic setback.

2. That Council deny Development Permit Application No. DP1204 for a single residential dwelling at 25 Spyglass Lookout.
 - Advantages: The entire lot will remain undeveloped until such time that another development permit application or another use is proposed.
 - Disadvantages: The property owners will have incurred further expenses for professional assessments of the development potential of their property and will not be permitted to construct a cabin on the property. Any further proposal would require another development permit application before proceeding with realizing the intended use of the lot.

SUMMARY POINTS

- Development Permit Application No. DP1204 is for a single residential dwelling within the aquatic setback at 25 Spyglass Lookout.
- Variances are requested to reduce the minimum required aquatic setback from 15.0m to 6.4m for the proposed dwelling and from 15.0m to 0.0m for the proposed servicing, and to reduce the minimum required parking from 2 to 0 parking spaces.
- The environmental assessment report prepared by a Qualified Environmental Professional and submitted in support of this application has been reviewed and accepted by Staff.
- The current proposal has been determined to be the most sensitive option and would allow limited development of the property under the existing R3 zoning for a dwelling unit with minimal impact.
- Staff support the proposed variances.

ATTACHMENTS

ATTACHMENT A: Permit Terms and Conditions
ATTACHMENT B: Context Map
ATTACHMENT C: Location Plan
ATTACHMENT D: Site Survey
ATTACHMENT E: Proposed Site Servicing Plan and Sections
ATTACHMENT F: Biophysical Map
ATTACHMENT G: Aerial Photo

Submitted by:

Lainya Rowett
Manager, Current Planning

Concurrence by:

Jeremy Holm
Director, Development Approvals

Dale Lindsay
GM, Development Services/Deputy CAO

ATTACHMENT A

PERMIT TERMS AND CONDITIONS

TERMS OF PERMIT

“City of Nanaimo Zoning Bylaw 2011 No. 4500” is varied as follows:

- *Section 6.3.1.2 Location and Siting of Buildings and Structures to Watercourses* – to reduce the minimum required watercourse leave strip as measured from the natural boundary of the sea from 15.0m to 6.4m for a single residential dwelling, and from 15.0m to 0.0m for above-ground servicing.

City of Nanaimo “Off-Street Parking Regulations Bylaw 2018 No. 7266” is varied as follows:

- *Section 7.2 All Other Uses Parking Table* – to reduce the minimum number of required off-street parking spaces from 2 to 0 spaces.

CONDITIONS OF PERMIT

1. The subject property is developed in accordance with the proposed Site Survey prepared by McElhanney Associates Land Surveying Ltd., dated 2021-OCT-22, as shown on Attachment D.
2. The subject property is developed in accordance with the proposed Site Servicing Plan and Sections prepared by McElhanney, dated 2021-OCT-27, as shown on Attachment E.
3. A legal plan for the subject property is registered with the Surveyor General prior to building permit issuance in accordance with the proposed Site Survey prepared by McElhanney Associates Land Surveying Ltd., dated 2021-OCT-22, as shown on Attachment D.
4. The subject property is developed and maintained in substantial compliance with the Vegetation Management Plan prepared by Aquaparian Environmental Consulting Ltd., dated 2021-AUG-10.
5. Security is to be submitted prior to building permit issuance and held for three years from the date of completion, to ensure the lot is developed in accordance with the Vegetation Management Plan.
6. A no-build and no-disturbance Section 219 Covenant is to be registered on title prior to building permit issuance to protect the natural habitat in the area marked “Covenant Area” on the Site Survey prepared by McElhanney Associates Land Surveying Ltd., dated 2021-OCT-13, as shown on Attachment D.
7. Permanent fencing and signage built to the City of Nanaimo aquatic setback fence standards or to a standard accepted by the Director of Development Approvals, to be installed prior to building permit issuance and located at the southern edge of the “Covenant Area” as shown on Attachment D.

8. The subject property is developed in accordance with the following recommendations by Aquaparian Environmental Consulting Ltd. as outlined in the Environmental Investigation date 2021-JAN-10:
- A rare plant survey is to be conducted on the property and submitted to the City in late spring or early summer, prior to issuance of a building permit, to confirm the absence or presence of rare plants.
 - Any staging area on-site for construction materials, including pre-fabricated building materials for the cabin and boardwalk and servicing pipes, is to be identified and agreed upon by a Qualified Environmental Professional prior to start of construction.
 - No trees are to be removed on the property.
 - All existing anthropogenic materials (e.g. tents, tarps, carpets, planter pots) are to be removed from site prior to building permit issuance.
 - Transport of building materials is to be completed by a landing craft during high tide.
 - The amount of soil disturbance (e.g. excavations) is to be limited during the installation of the cabin and supporting structure where possible.
 - All concrete works for the development shall include containment of concrete mixing and pouring of concrete, including concrete-laden wastewater. Due to its alkaline toxicity, no concrete wastewater is to drain to the ocean to avoid tidal inundation. All concrete waste shall be properly disposed off-site. Development will avoid any exposure of uncured concrete to tidal inundation.
 - The use of heavy equipment on-site is to be limited, including the use of mini-excavators and front loaders, and all equipment should be free of soil or hydraulic / hydrocarbon leaks.
 - Waste materials are to be removed from the site as soon as possible.
 - Final foundation works and construction works are to be inspected by a professional biologist.

ATTACHMENT B CONTEXT MAP

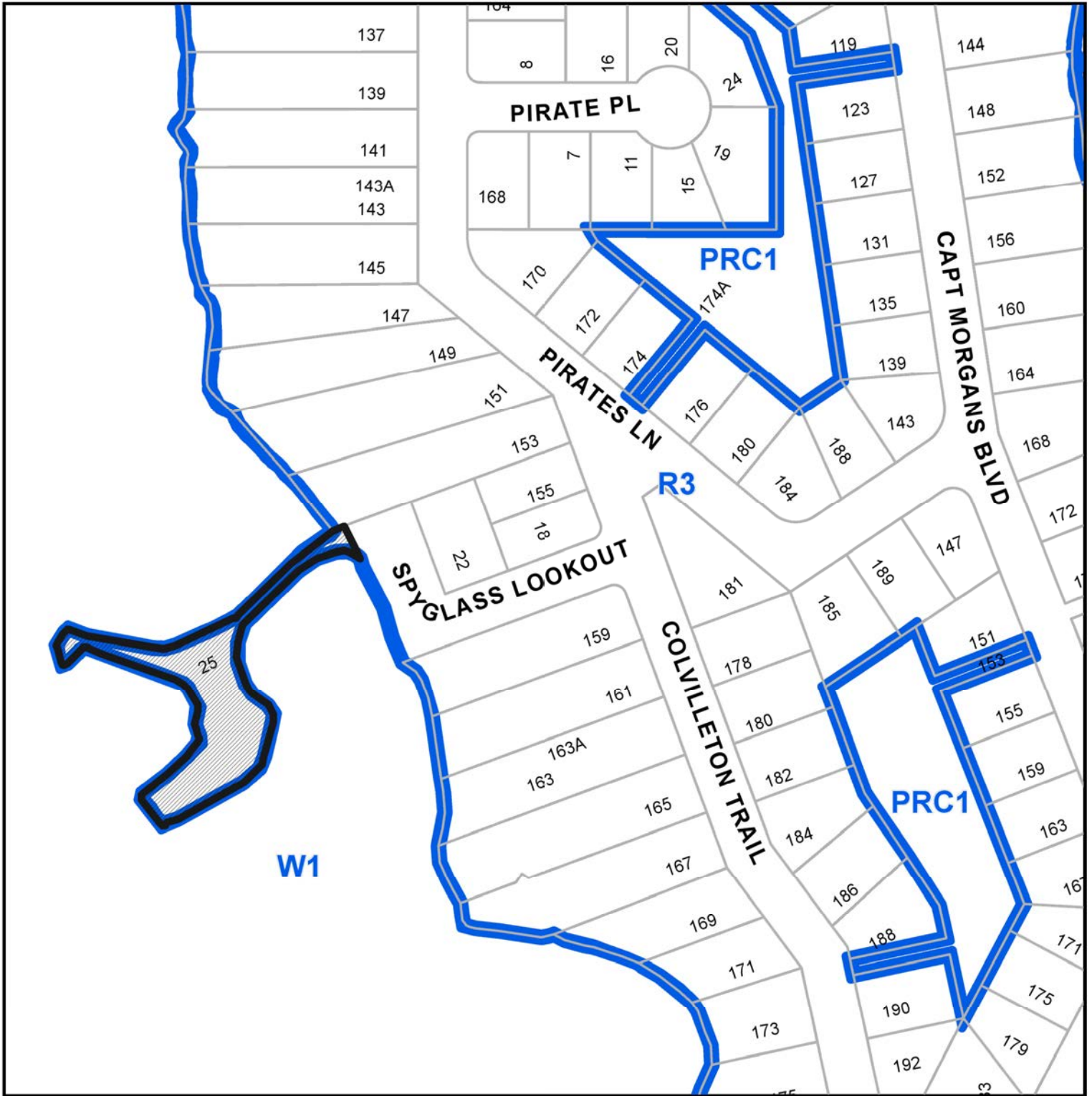


N



25 SPYGLASS LOOKOUT

ATTACHMENT C LOCATION PLAN



DEVELOPMENT PERMIT NO. DP001204

 **Subject Property**

CIVIC: 25 SPYGLASS LOOKOUT
LEGAL: LOT 346, DOUGLAS ISLAND (ALSO KNOWN AS PROTECTION ISLAND), NANAIMO DISTRICT, PLAN 14111

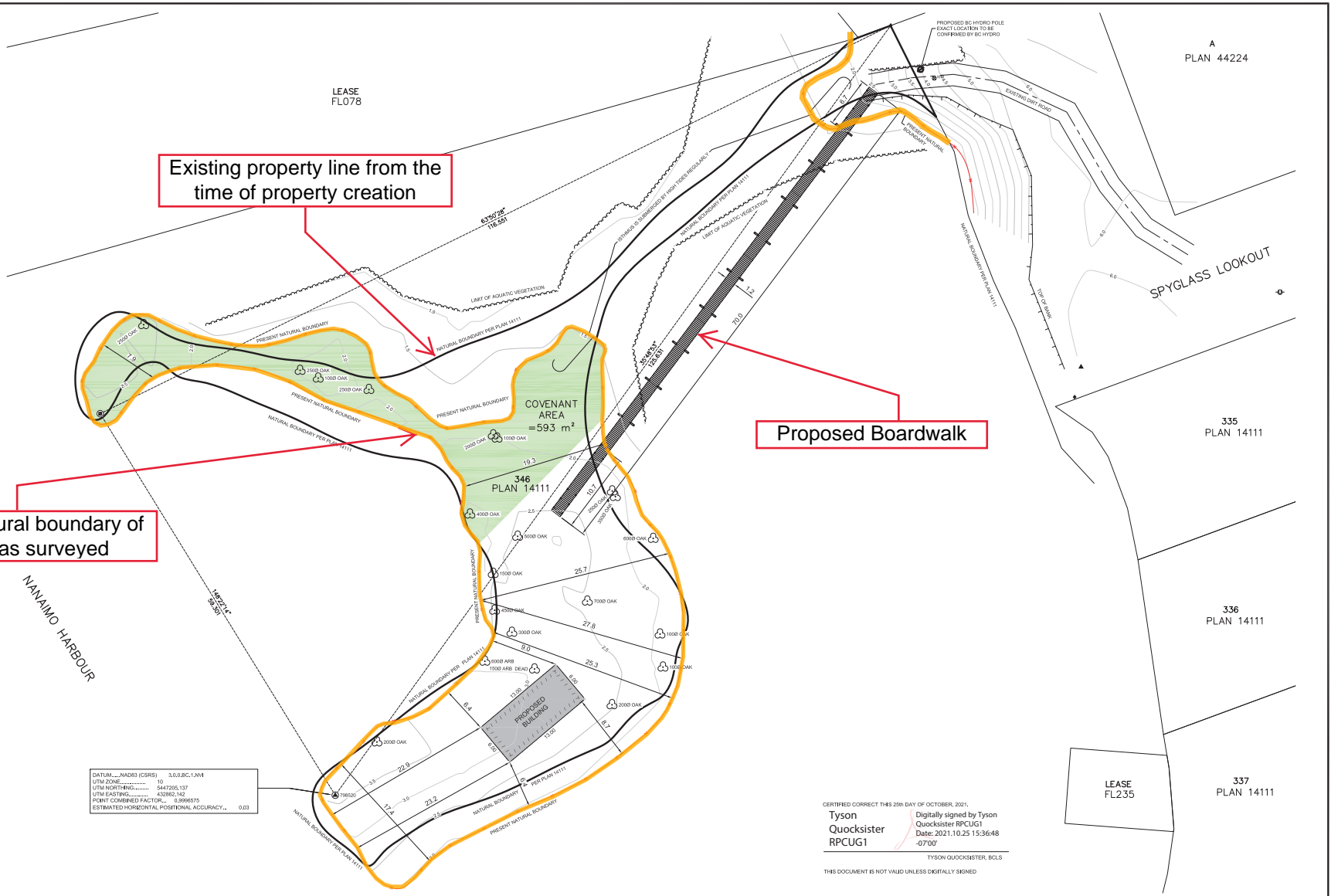
ATTACHMENT D SITE SURVEY

McElhanney ANID-154522

LEGAL DESCRIPTION:
LOT 346, DOUGLAS ISLAND (ALSO KNOWN AS PROTECTION ISLAND), NANAIMO DISTRICT, PLAN 14111
PR: 004-337-581

NOTES:
PARCEL DIMENSIONS ARE DERIVED FROM FIELD SURVEY AND EXISTING LAND TITLE OFFICE RECORDS BEING PLAN 14111
ELEVATIONS ARE IN METRES AND GEODETIC, BASED ON GNSS TIES TO GEODETIC CONTROL MONUMENTS 9542043 AND 30128
CONTOUR INTERVAL IS 0.5 METRES
DATE OF FIELD SURVEY: AUGUST 7, 2019
THIS DOCUMENT SHALL NOT BE USED TO DEFINE PROPERTY LINES OR PROPERTY CORNERS.
BOARDWALK SHOWN FOR CONCEPTUAL PURPOSES ONLY. DETAILED DESIGN AND LOCATION TO BE DETERMINED.

- LEGEND:
- ⊙ CONTROL MONUMENT - FOUND
 - ⊙ TRVERSE HUB - FOUND
 - ⊙ ROCK POST - FOUND
 - ⊙ ALUMINIUM POST - FOUND
 - ⊙ POLE - HYDROTELEPHONE POLE
 - ⊙ WATER METER
 - ⊙ TREE - DECIDUOUS
 - TOP OF BANK
 - BUSH / VEGETATION
 - CENTER OF ROAD
 - PRESENT NATURAL BOUNDARY



Existing property line from the time of property creation

Proposed Boardwalk

Present natural boundary of the sea as surveyed

DATUM: NAD83 (CSRS) 3.0, B.C. 4.7M
UTM ZONE: 10
UTM NORTHING: 5447205.137
UTM EASTING: 452882.142
POINT CORRECTION FACTOR: 0.99999575
ESTIMATED HORIZONTAL POSITIONAL ACCURACY: 0.03

CERTIFIED CORRECT THIS 20th DAY OF OCTOBER, 2021.
Tyson Quocksister
RPCUG1
Digitally signed by Tyson Quocksister (RPCUG1)
Date: 2021.10.25 15:36:48 -0700
TYSON QUOCKSISTER, BCLS
THIS DOCUMENT IS NOT VALID UNLESS DIGITALLY SIGNED

Rev	Date	Description	Sure	Drawn	App'd
4	2021-10-22	REVISED BUILDING SIZE		TO	TO
3	2021-10-13	REVISED BUILDING LOCATION		TO	TO
2	2019-02-07	REVISED PRESENT NATURAL BOUNDARY		TO	TO
1	2019-08-08	PROPOSED BUILDING LOCATION	WP	TO	TO
0	2019-08-28	TOPOGRAPHIC SURVEY	TO	TO	TO

THE DRAWING AND DESIGN ARE THE PROPERTY OF MCELHANNEY ASSOCIATES LAND SURVEYING LTD. (MELHANNEY) AND SHALL NOT BE USED, REPRODUCED OR REPRODUCED WITHOUT THE CONSENT OF MCELHANNEY ASSOCIATES LAND SURVEYING LTD. ANY REUSE, REPRODUCTION OR TRANSMISSION OF THIS DRAWING OR DESIGN OR ANY PART THEREOF WITHOUT THE WRITTEN CONSENT OF MCELHANNEY ASSOCIATES LAND SURVEYING LTD. IS STRICTLY PROHIBITED. THIS DRAWING AND DESIGN HAS BEEN PREPARED FOR THE CLIENT REFERRED TO IN THE DRAWING AND NO RESPONSIBILITY FOR THE ACCURACY OF THE INFORMATION SHOWN AT THE TIME OF PREPARATION SHALL BE ASSUMED BY MCELHANNEY ASSOCIATES LAND SURVEYING LTD. OR ANY OTHER PARTY. CONTRACTORS, SUPPLIERS, CONSULTANTS AND STAKEHOLDERS, OR THEIR EMPLOYEES OR AGENTS, SHOULD VERIFY THE INFORMATION SHOWN IN THIS DRAWING. INFORMATION ON ENGINEERING AND/OR REGULATORY REQUIREMENTS MAY NOT BE COMPLETE OR ACCURATE. MCELHANNEY ASSOCIATES LAND SURVEYING LTD. AND ITS EMPLOYEES AND AGENTS ARE NOT RESPONSIBLE FOR THE LOCATION OF AND UNDERGROUND UTILITIES, PIPES, CABLES OR OTHER FACILITIES WHETHER SHOWN OR OMITTED FROM THIS DRAWING. PRIOR TO CONSTRUCTION CONTRACTORS SHALL EXPOSE THE LOCATION OF ALL UTILITIES PRIOR TO ANY GRADING OR HYDROLOGIC AND ADVISE THE ENGINEER OF POTENTIAL CONFLICTS.

ORIGINAL DRAWING: AREA D (22' x 34')
ALL DIMENSIONS ARE IN METRES



McElhanney
McElhanney Associates Land Surveying Ltd.

RECEIVED
DP 1204
2021-NOV-10

Side 1
1351 Estevan Road
Nanaimo BC
Canada V9S 3Y3
Tel 250 716 3336

ALFREDO TURA
25 SPYGLASS LOOKOUT

TOPOGRAPHIC SURVEY

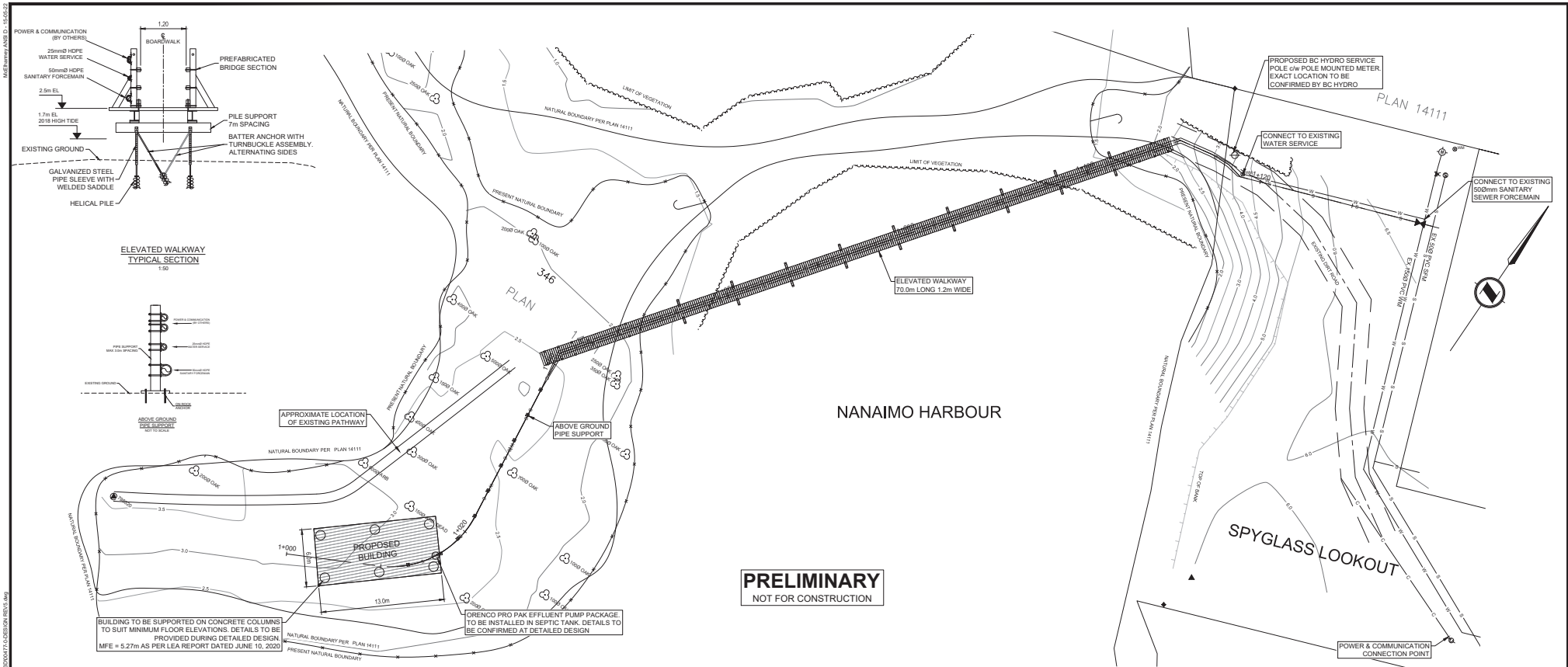
PROTECTION ISLAND
NANAIMO, BC

Drawing No.
00477-0-V-1

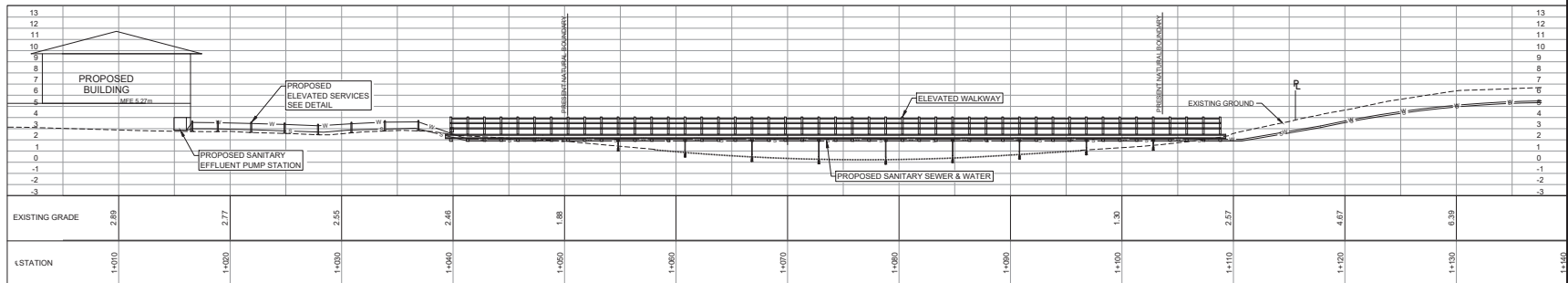
Project Number
2232-00477-00

Rev.
4

ATTACHMENT E PROPOSED SITE SERVICING PLAN AND SECTIONS



PRELIMINARY
NOT FOR CONSTRUCTION



Rev	Date	Description	Drawn	App'd
PH	2021-10-27	ISSUED FOR APPROVAL		
PD	2021-09-21	ISSUED FOR DISCUSSION		
PF	2021-07-29	ISSUED FOR DISCUSSION		
PE	2021-07-08	ISSUED FOR DISCUSSION		
PD	2020-12-03	ISSUED FOR DISCUSSION		
PC	2020-11-26	ISSUED FOR DISCUSSION		
PB	2019-02-14	ISSUED FOR DISCUSSION		
PA	2018-10-22	ISSUED FOR DISCUSSION		

TO	TE	CP
TO	TE	CP
KB	TO	TO
KB	TO	TO
KB	TO	TO
KB	TO	TO
HTC	CP	CP
HTC	CP	CP
HTC	CP	CP

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2021-NOV-10

1351 Eglar Road
Nanaimo BC
Canada V8S 3Y3
Tel 250 716 3336

ALFREDO TURA
25 SPYGLASS LOOKOUT

PLAN, PROFILE & DETAIL
PROTECTION ISLAND
NANAIMO, BC

Drawing No.
101

Project Number
2232-00477-00

Rev.
PH

**ATTACHMENT F
BIOPHYSICAL MAP**

25 Spyglass Lookout – Biophysical Map of Property

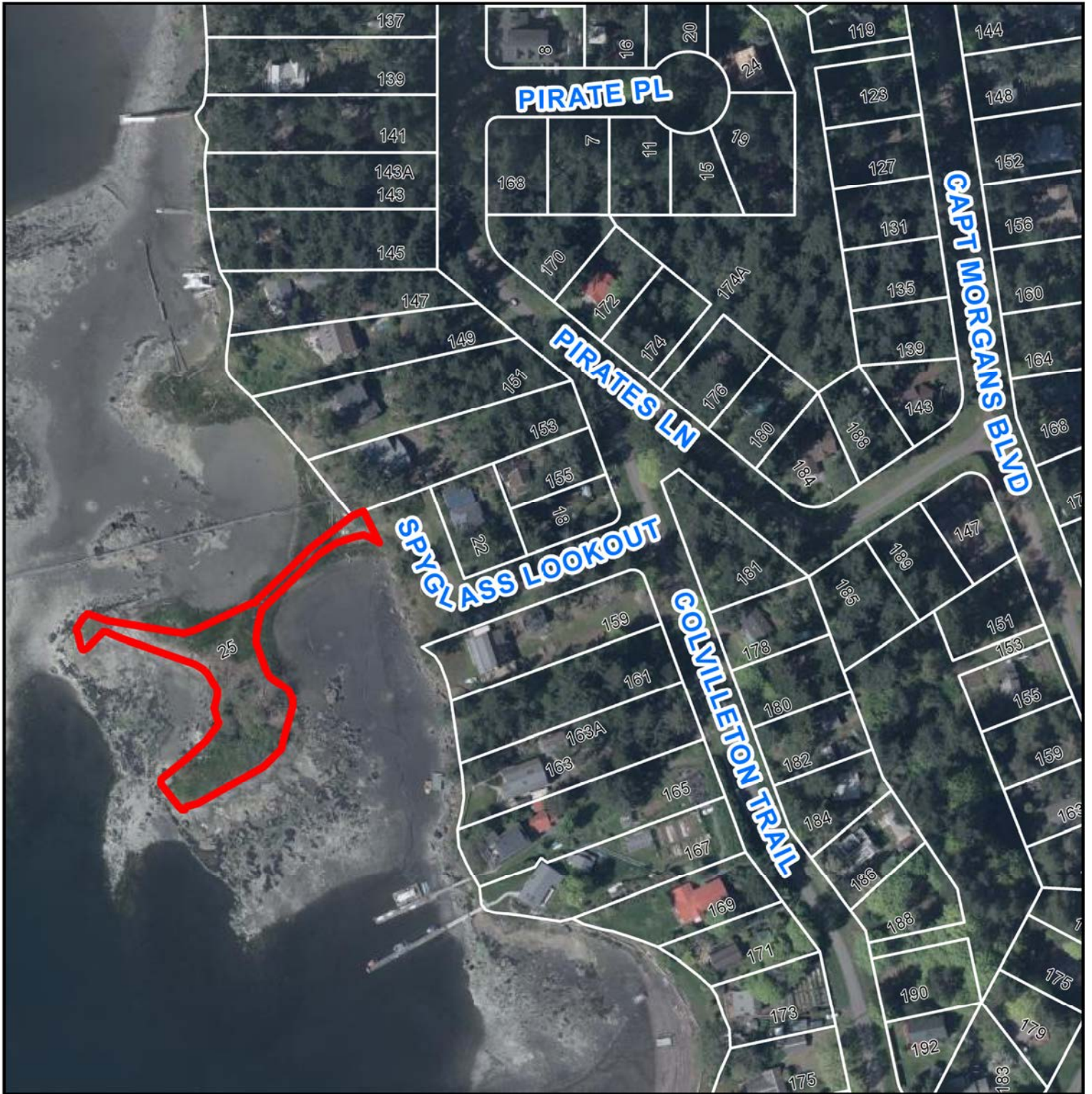


Legend

- Salt Marsh ————
- Garry Oak Meadow ————
- Grass Meadow - - - -

Figure 3

**ATTACHMENT G
AERIAL PHOTO**



DEVELOPMENT PERMIT NO. DP001204

 25 SPYGLASS LOOKOUT

DATE OF MEETING [January 17, 2022]
 AUTHORED BY [LAINY STEVENSON, PLANNER, CURRENT PLANNING]
 SUBJECT [DEVELOPMENT PERMIT APPLICATION NO. DP1208 –
 497 MENZIES RIDGE DRIVE]

OVERVIEW

Purpose of Report

To present for Council’s consideration, a development permit application for a 22-unit multi-family townhouse development at 497 Menzies Ridge Drive.

Recommendation

That Council issue Development Permit No. DP1208 at 497 Menzies Ridge Drive to permit a multi-family townhouse development with the following variances to:

- reduce the minimum landscape buffer requirement for the side and rear yard from 1.8m to 0m; and
- increase the maximum allowable fence height within the front yard setback from 1.2m to 2.8m for the proposed decorative arbours.

BACKGROUND

A development permit application, DP1208, was received from Raymond de Beeld Architect Inc., on behalf of Menzies Ridge Estates Ltd. to permit a multi-family townhouse development at 497 Menzies Ridge Drive.

Subject Property and Site Context

<i>Zoning</i>	Low Density Residential (R6)
<i>Location</i>	The subject property is located on the south side of Menzies Ridge Drive between Buttertubs Marsh Park and Sarum Rise Way.
<i>Total Area</i>	5,470m ²
<i>Official Community Plan (OCP)</i>	Map 1 – Future Land Use Plan – Neighbourhood Map 3 – Development Permit Area DPA No. 9 – Commercial, Industrial, Institutional, Multiple Family and Mixed Commercial/Residential Development
<i>Relevant Design Guidelines</i>	General Development Permit Area Design Guidelines

The subject property is a vacant lot in the greater Hawthorne subdivision that is being developed between Buttertubs Marsh and Wakesiah Avenue. The property is a through-lot and has a frontage on the corner of Bird Sanctuary Drive and Poets Trail Drive to the south, and Menzies Ridge Drive to the north. The lot is predominantly flat with a slight slope towards Buttertubs Marsh to the west. Buttertubs Marsh and its surrounding riparian area are protected by a covenant that was secured at the time of the property’s creation in 2014. A covenant

amendment to limit the total number of dwelling units to 22 was approved by Council on 2020-SEP-17.

The surrounding neighbourhood consists primarily of low-density residential uses with single residential dwellings to the north, east, and south, and duplex lots to the southwest and northwest. Buttertubs Marsh Park is approximately 10m to the west of the subject property. A six-storey, 159-unit affordable seniors' residence is under construction at 10 Buttertubs Drive, approximately 120m northwest of the subject property.

DISCUSSION

Proposed Development

The applicant is proposing a 22-unit multi-family townhouse development consisting of seven buildings. Each unit is roughly 135m² in size, with two bedrooms and a den in a two-storey townhouse form with single car garages. The property zoning (R6 – Low Density Residential) permits a base Floor Area Ratio (FAR) of 0.45. The applicant is proposing to achieve Tier 1 of Schedule D of the “City of Nanaimo Zoning Bylaw 2011 No. 4500” (the “Zoning Bylaw”), allowing an additional 0.10 FAR (for a total of 0.55). The total gross floor area for all buildings is approximately 2,464m², and the total FAR is 0.451. Some of the amenities proposed to achieve Tier 1 of Schedule D include:

- a public walkway through the property;
- building design to exceed the BC Energy Step Code by one step;
- plumbing features to use 35% less water than the BC Building Code standard;
- living walls; and
- educational signage installed on site to highlight sustainable water management practices, energy management practices, and alternative transportation options.

Site Design

The proposed buildings are comprised of two to four units each. Buildings A and B face Menzies Ridge Drive and have individual pedestrian connections to the public sidewalk. Buildings C to F are located approximately in the middle of the site and face internal access driveways. Building G faces an internal access driveway and has a rear connection to a private lane with emergency vehicle access only and a 2m-wide public walkway.

A 1.5m-wide private walkway through the middle of the site is proposed, with connections to individual patio areas and a central landscaped play area. The 2m-wide public walkway is protected by an existing statutory right-of-way through the site along the east and south property lines, and connects Menzies Ridge Drive to Bird Sanctuary Drive. The walkway is adjacent to the private lane, which provides vehicular access into the site from Menzies Ridge Drive. The southern portion of the private lane has removable bollards to allow emergency vehicle access only to Bird Sanctuary Drive.

Parking is provided within the single car garages of each unit, and additional surface parking is provided along the private lane, which is accessed from Menzies Ridge Drive. In total, 40 stalls are provided, including 3 accessible stalls, 2 visitor stalls, and facilities for 12 electric vehicle charging stalls. Bicycle parking is proposed, with long-term bicycle storage located within the

parking garages and a short-term bicycle parking rack to be accessed from an internal walkway. Refuse receptacles will be stored within an enclosure located on the south elevation of Building E.

Building Design

The proposed buildings are contemporary in design and provide visual interest along Menzies Ridge Drive and Bird Sanctuary Drive. Buildings A and B on Menzies Ridge Drive are oriented close to the street edge, with a pedestrian connection to each unit from the public walkway.

The front and rear elevations of each building consist of wood-textured longboard bordered by projections with fiber cement panels and metal flashing. Glazing is a prominent feature on both the front and rear elevations of all buildings. Fiber cement panel is predominantly used along the side elevations of the proposed buildings.

Each unit has a low-pitched roof with a flat portion between some units that are set back from the façades. Balconies for outdoor living are fully covered on the front and rear elevations of all units. Entrance canopies are provided to each unit.

Landscape Design

The western landscape buffer incorporates indigenous species that integrate with Buttertubs Marsh, which is adjacent to the subject property. The northern landscape buffer along Menzies Ridge Drive is broken only by pedestrian connections (including the main pedestrian entrance to the site) and the drive aisle that provides vehicular access to the subject property.

Layered plantings are proposed throughout the site, with a mix of indigenous, deciduous, and evergreen shrubs and trees. The landscape plan is centered around a naturalized play area that includes mounds, stepping stone paths, and a cedar platform that overlooks a densely planted low point, to emulate a marsh. Bird boxes are proposed throughout the site to encourage nesting.

Benches and bollard lighting are proposed along the pedestrian walkways and within the central play area. Private amenity spaces are provided for each unit in the form of patios with concrete surfaces that are enclosed by a cedar fence. A 1.8m-high cedar fence on top of a 1.35m-high Redi-Rock retaining wall is proposed along the western property line to provide screening from adjacent properties.

Design Advisory Panel

The Design Advisory Panel, at its meeting held on 2020-DEC-15, accepted DP001208 as presented and provided the following recommendations:

- Re-design the façade of the units facing Menzies Ridge Drive to create a better connection with the street (i.e., add front entries that include weather protection).
- Look at adding articulation to the side elevations; and
- Provide pedestrian links from the covenant sidewalk to the corners of Buildings D and E.

In response to the panel’s recommendations, the applicant submitted revised elevations to show additional windows and living walls on the side elevations, and balconies and arbours on the front elevation of the buildings facing Menzies Ridge Drive.

Proposed Variances

Minimum Landscape Treatment Level

Part 17 of the Zoning Bylaw requires that properties within the R6 zone meet Minimum Landscape Treatment Level 2 within the side yard, and a minimum landscape buffer width of 1.8m. The majority of the landscape buffer is reduced to 0m along the east property line to accommodate the drive aisle and a 2m-wide public walkway. Existing fencing will be retained adjacent to the walkway, and a 2m-wide landscape buffer will be provided in the southeast portion of the property between the walkway and neighbouring property. Staff support the proposed variance.

Maximum Fence Height

The Zoning Bylaw allows a maximum fence height of up to 1.2m within the front yard setback in the R6 zone. The applicant is proposing a fence height of up to 2.8m – a proposed variance of 1.6m – in order to add decorative arbours along the front property line in order to add visual interest and reinforce pedestrian wayfinding to the units facing Menzies Ridge Drive. Staff support the proposed variance.

SUMMARY POINTS

- Development Permit No. DP1208 is for a 22-unit multi-family townhouse development at 497 Menzies Ridge Drive.
- Variances are requested for the minimum landscape treatment level and maximum fence height.
- The proposed development addresses the City’s design guidelines, and Staff support the proposed variances.

ATTACHMENTS

ATTACHMENT A: Permit Terms and Conditions
ATTACHMENT B: Context Map
ATTACHMENT C: Location Plan
ATTACHMENT D: Site Plan
ATTACHMENT E: Building Elevations and Details
ATTACHMENT F: Building Renderings
ATTACHMENT G: Landscape Plan and Details
ATTACHMENT H: Schedule D – Amenity Requirements for Additional Density
ATTACHMENT I: Aerial Photo

Submitted by:

Lainya Rowett
Manager, Current Planning

Concurrence by:

Jeremy Holm
Director, Development Approvals

Dale Lindsay
GM, Development Services/Deputy CAO

ATTACHMENT A

PERMIT TERMS AND CONDITIONS

TERMS OF PERMIT

The "City of Nanaimo Zoning Bylaw 2011 No. 4500" is varied as follows:

1. *Section 6.10.2 Fence Height* – to increase the maximum allowable fence height within the front yard setback from 1.2m to 2.8m for the proposed decorative arbours.
2. *Section 17.2.1 Minimum Landscape Treatment Level* – to reduce the minimum landscape buffer width for the east side yard from 1.8m to 0m as proposed.

CONDITIONS OF PERMIT

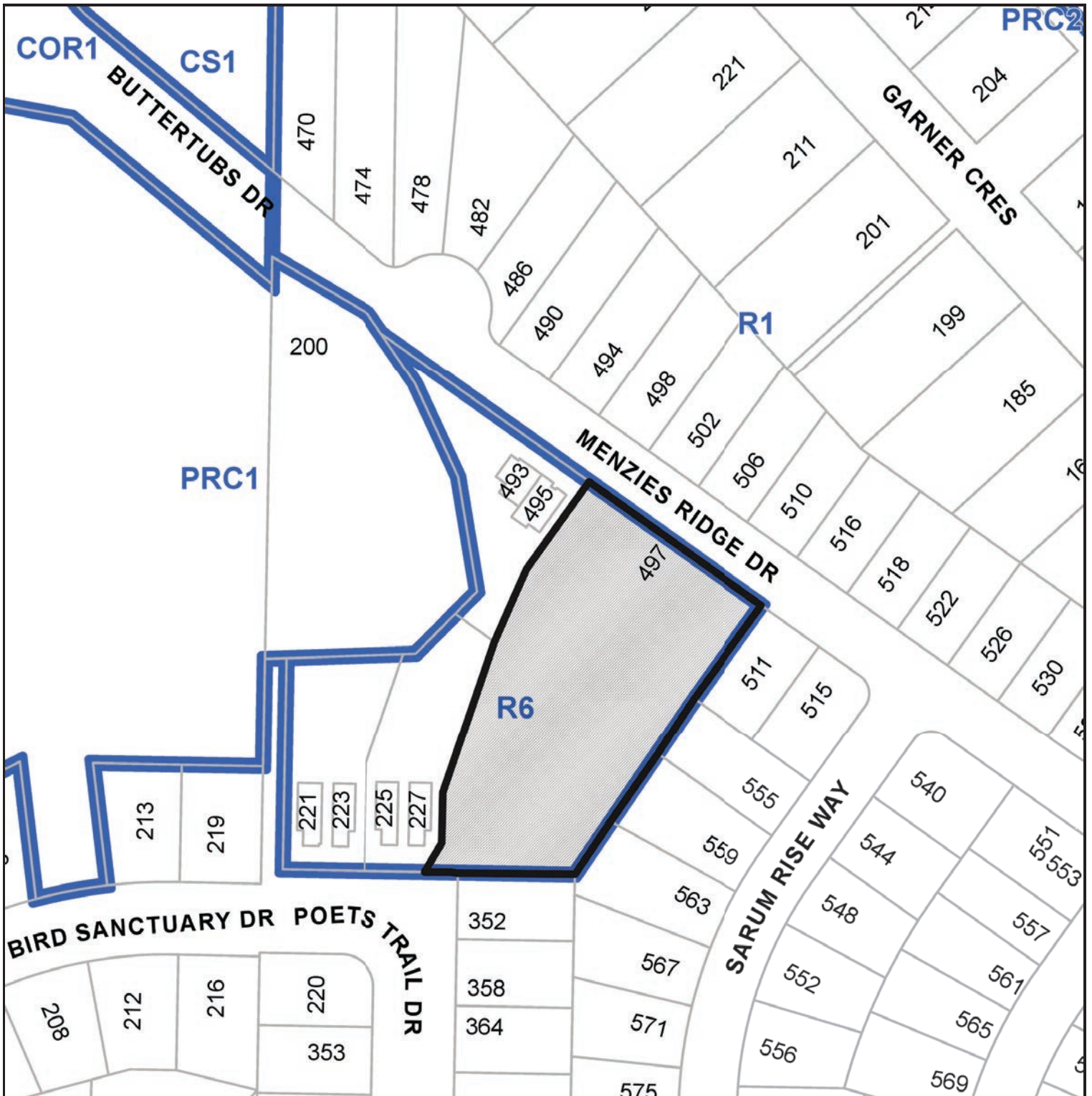
1. The subject property is developed in substantial compliance with the Site Plan prepared by Raymond de Beeld Architect Inc., dated 2021-DEC-23, as shown on Attachment D.
2. The development is in substantial compliance with the Building Elevations and Details prepared by Raymond de Beeld Architect Inc., dated 2021-DEC-23, as shown on Attachment E.
3. The subject property is developed in substantial compliance with the Landscape Plan and Details prepared by Kinship Design Art Ecology, dated 2021-NOV-18, as shown on Attachment G.
4. The subject property is developed in accordance with the 'Schedule D – Amenity Requirements for Additional Density' prepared by Raymond de Beeld Architect Inc, received 2021-DEC-23, as shown in Attachment H, and is to include the following items:
 - A letter from the coordinating professional submitted prior to Building Permit issuance outlining how the required items for additional density will be achieved; and
 - A letter from the coordinating professional with accompanying evidence submitted prior to building occupancy demonstrating that the required items have been provided.
5. The existing Statutory Right-of-Way (FB379537) be modified to allow public pedestrian and cyclist access from Menzies Ridge Drive to Bird Sanctuary Drive and emergency vehicle access only from Bird Sanctuary Drive, as shown on the proposed Site Plan in Attachment D, prior to building occupancy.
6. Release of existing charge CA3926722 to permit the installation of bollards to prevent vehicle traffic through the site.

ATTACHMENT B CONTEXT MAP



497 MENZIES RIDGE DRIVE

ATTACHMENT C
LOCATION PLAN



DEVELOPMENT PERMIT NO. DP001208

 **Subject Property**

CIVIC: 497 MENZIES RIDGE DRIVE

LEGAL: LOT 3, SECTION 1, NANAIMO DISTRICT, PLAN EPP36660

ATTACHMENT D SITE PLAN

Proposed Fence Height Variance Locations

- Material Legend**
- Concrete Paving
 - Landscape
 - Permeable Pavers
 - Mountable Curb
 - Non Mountable Curb
 - S Small Parking Stall
 - EV Electric Vehicle Stall
 - Living Wall
Area = 3,180 sqft
>10% total walls

Emergency Vehicle Access Only

Public Walkway

Proposed Landscape Buffer Variance



MENZIES RIDGE DR

1 Site Plan
Scale: 1:150

RdIB Raymond de Beeld
ARCHITECT INC.

Menzies Townhouses

497 Menzies Ridge Drive, Nanaimo

Site Plan



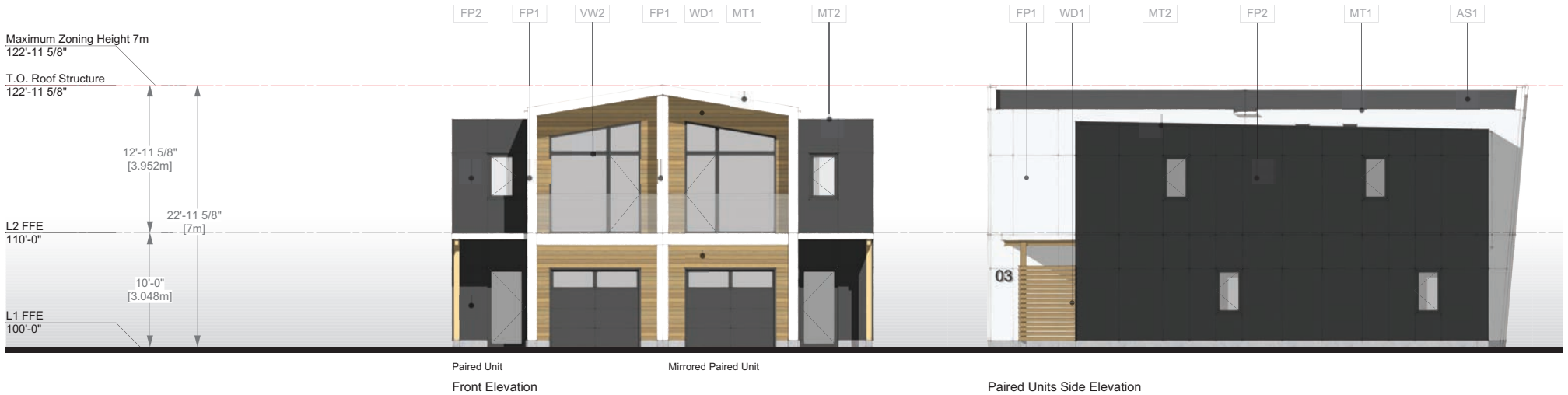
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DP 1208
2021-DEC-23

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December 23, 2021 - DP R3

A2.1

ATTACHMENT E BUILDING ELEVATIONS AND DETAILS

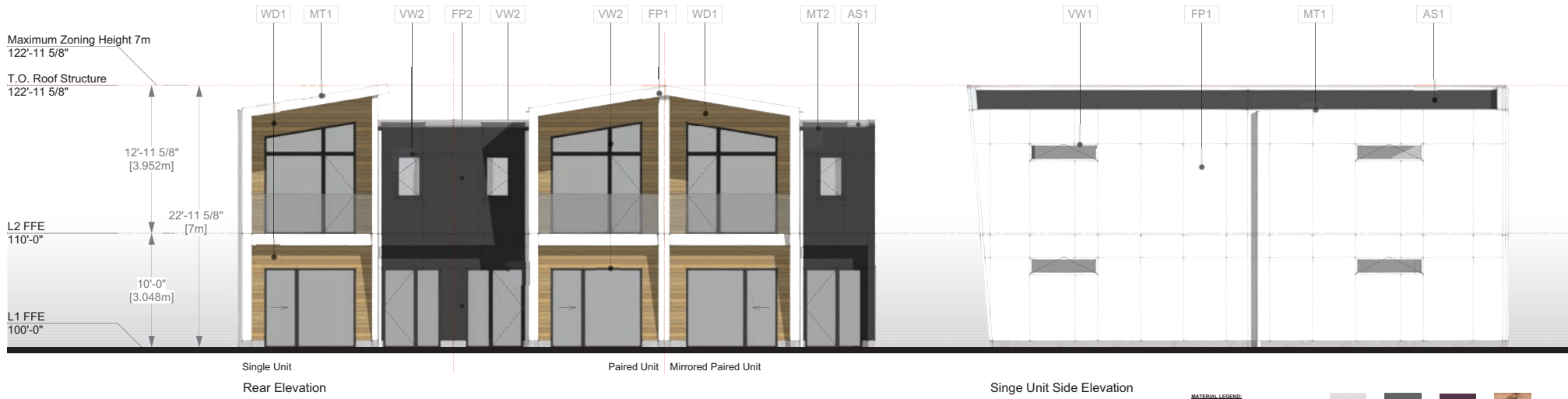
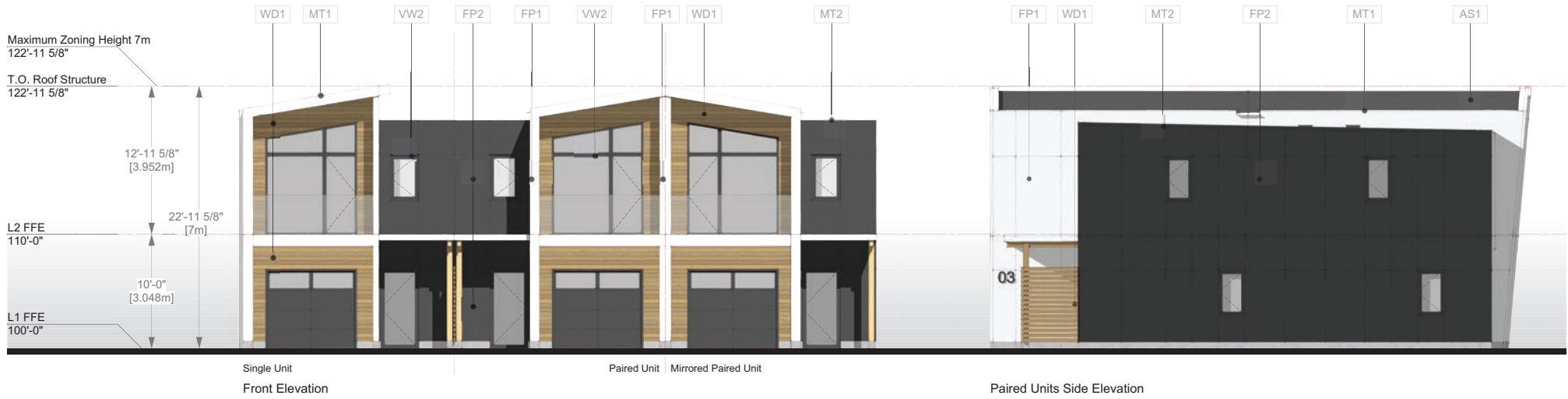


1 Unit Elevations
Scale: 1/4" = 1'-0"

MATERIAL LEGEND:

FP1	Fiber Cement Panel (White)	FP2	Fiber Cement Panel (Grey, Other Colors)
WD1	Wood Tumbled Longboard	MT1	Matte Finishing (White)
MT2	Matte Finishing (Grey)	AS1	Asphalt Roofing
VW1	Vinyl Window (White)	VW2	Vinyl Window (Grey)
G1	Aluminum & Glass Guardrail (Grey)		





1 Unit Elevations
Scale: 1/4" = 1'-0"

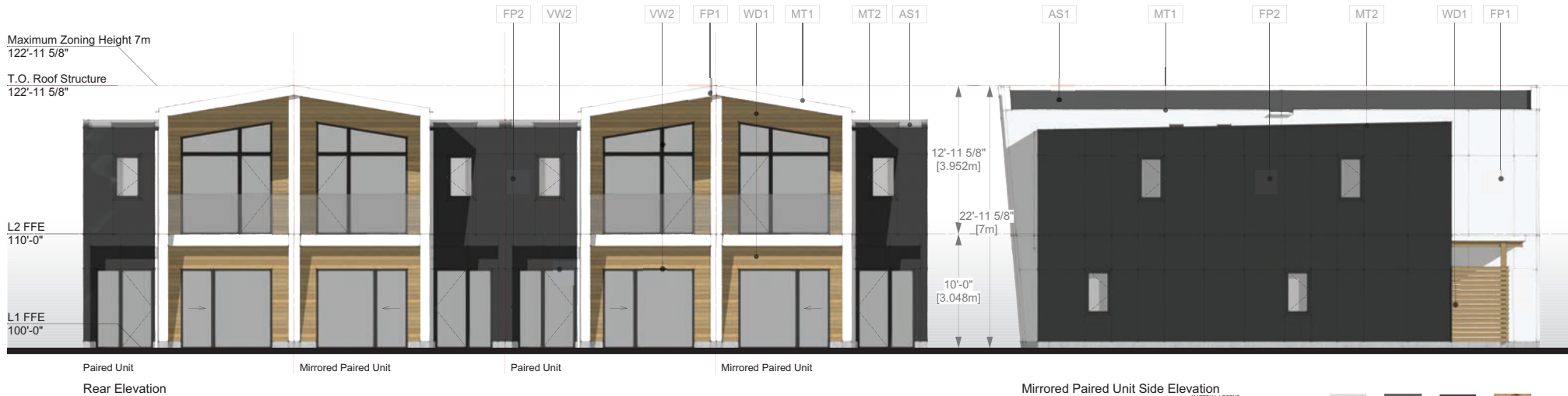
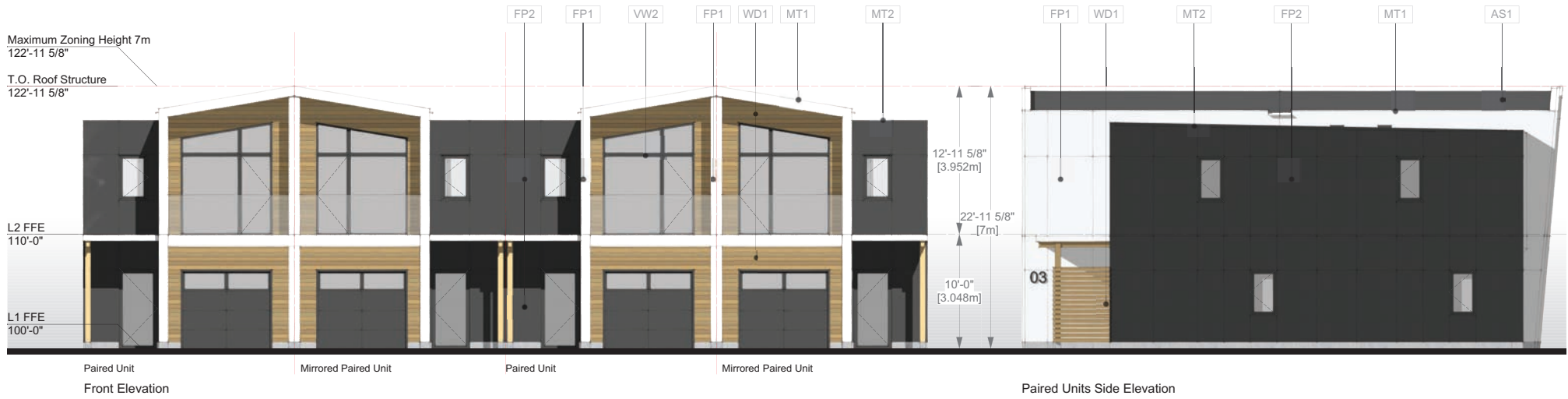
MATERIAL LEGEND

- FP1 Fiber Cement Panel (White)
- FP2 Fiber Cement Panel (Grey, Other Colors)
- WD1 Wood Textured Longboard
- MT1 Metal Flashing (White)
- MT2 Metal Flashing (Grey)
- AS1 Asphalt Roofing
- VW1 Vinyl Window (White)
- VW2 Vinyl Window (Grey)
- G1 Aluminum & Glass Guardrail (Grey)



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1 Unit Elevations
Scale: 1/4" = 1'-0"

MATERIAL LEGEND

- FP1 Fiber Cement Panel (White)
- FP2 Fiber Cement Panel (Grey, Other Colors)
- WD1 Wood Textured Longboard
- MT1 Metal Flashing (White)
- MT2 Metal Flashing (Grey)
- AS1 Asphalt Roofing
- VW1 Vinyl Window (White)
- VW2 Vinyl Window (Grey)
- G1 Aluminum & Glass Guardrail (Grey)





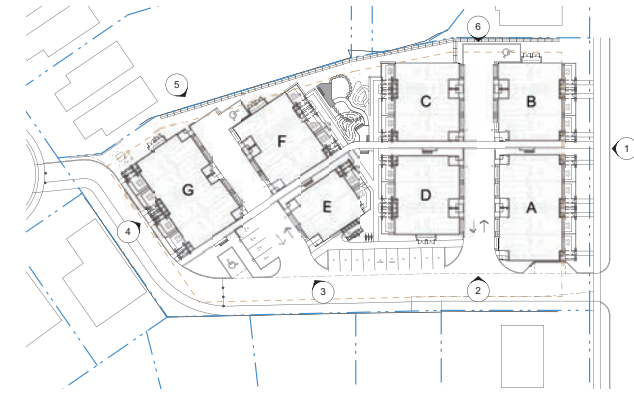
1 North East Elevation (Menzies Ridge Drive)
Scale: 1/8" = 1'-0"



2 South East Elevation
Scale: 1/8" = 1'-0"



3 East Elevation
Scale: 1/8" = 1'-0"

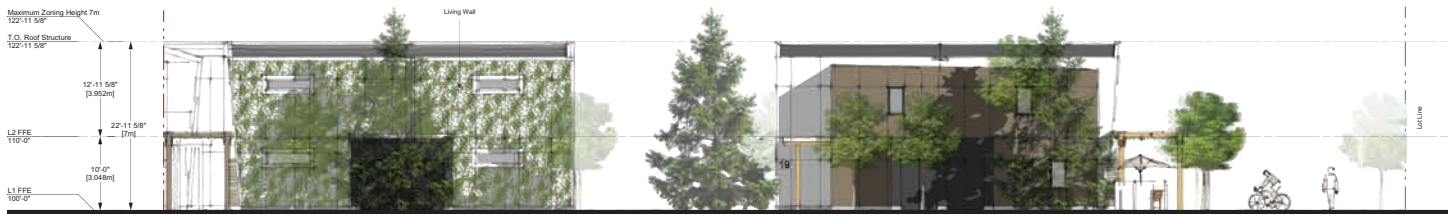


Key plan

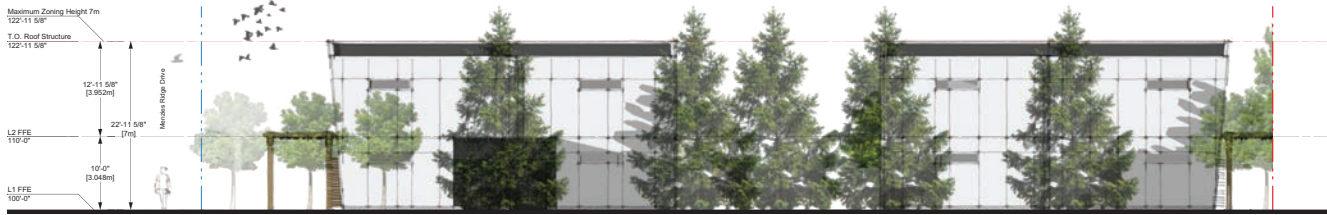




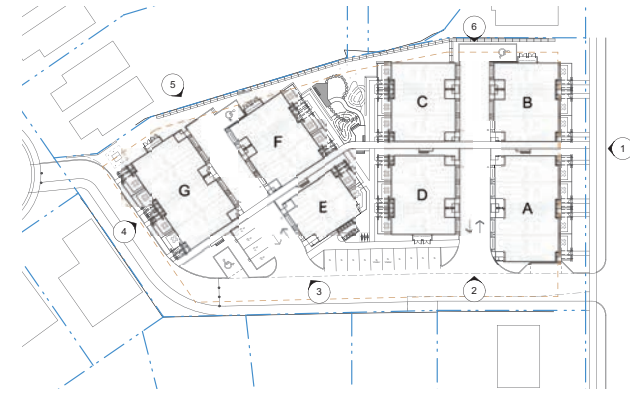
4 South Elevation (Bird Sanctuary Drive)
Scale: 1/8" = 1'-0"



5 West Elevation
Scale: 1/8" = 1'-0"



6 North West Elevation
Scale: 1/8" = 1'-0"



Key plan



ATTACHMENT F BUILDING RENDERINGS



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DP 1208
2021-DEC-23

1 Bird's Eye View from the South

Owner:
Steve Johnson / Ron Neal
Menzies Ridge Estates Ltd
7708 Hilda Avenue
Victoria, BC V8T 1Z6
Tel: 250-419-9669
manager@menziesridge.com

Architect:
Raymond de Beeld & Karin Kadz
Raymond de Beeld Architect Inc.
115 Terminal Ave. W
Nanaimo, B.C. V9S 4K1
Tel: 250-754-2108
raymond@rdbarchitect.ca
karin@rdbarchitect.ca

Client:
Keith Davies & Ryan Eathorne
Coastara Consulting Engineers Limited
2056-205 Wesley Street
Nanaimo, B.C. V9S 2T5
Tel: 250-591-7364
keith@coastara.ca
ruth@coastara.ca

Landscaper:
Katy Shalk
Kate Shalk Studio
1070 Nelson Street
Nanaimo, B.C. V9S 2K2
Tel: 250-753-8039
kate.shalk@gmail.com

Surveyor:
Matthew Schurich
Turner & Associates Land Surveying Inc.
415 Terminal Avenue North
Nanaimo, B.C. V9S 4J8
Tel: 250-753-9778
m@turner.ca

2 Consultants List

Drawing No.	Description
00.0	Cover Sheet, Consultants
A1.0	Context, Key Plan & Project Data
A1.1	Perspectives 1
A1.2	Perspectives 2
A2.1	Site Plan
A2.2	Enclosed Lot Layout
A3.1-4.3	Building Elevations
A4.4-6.5	Development Elevations
A7.1	Sections, Roof Plan

3 Drawing List





1 View from Menzies Ridge Drive
Perspective does not reflect Landscape Design



2 Driveway towards Buildings A, B, C & D



3 SRW and Garbage Enclosure



4 View From Bird Sanctuary Drive



1 Bird's Eye View from East



2 Pathway from Menzies Ridge Drive
Perspective does not reflect Landscape Design



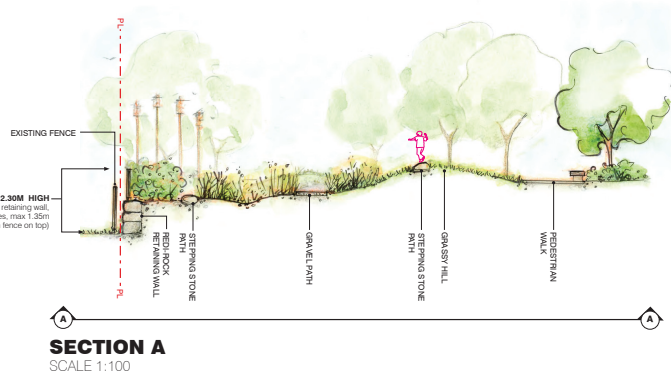
3 Kids Play Area and Bioswale
Perspective does not reflect Landscape Design



4 Unit Entrances



ATTACHMENT G LANDSCAPE PLAN AND DETAILS



SECTION A
SCALE 1:100



LANDSCAPE CONCEPT PLAN
SCALE 1:200

- PEDESTRIAN WALK**
(concrete paver walkway, shady lush green plantings, benches placed along walk for communal sitting, bollard lighting along main walkways)
- LAYERED FRONT YARD PLANTINGS**
(robust mix of indigenous & ornamental, deciduous & evergreen, perennials, shrubs, and small trees)
- PRIVATE PATIO**
(concrete paving)
- STREET TREE**
(coordinate with City, match existing street trees)
- LOW FENCE (TYPE 01)**
(1m high front yard cedar fence)
- EXISTING GRASS BOULEVARD**
- ENTRANCE GATE & PERGOLA**
- ADDRESS SIGN**
- LIVING WALL 01**
(green screen type growing structure planted with a mix of deciduous & evergreen vines)
- PUBLIC WALKWAY**
(2m wide, concrete paving)
- PUBLIC WALKWAY SIGNAGE**
- EXISTING FENCE**
(neighbouring cedar fence, to be replaced where needed during development)

MENZIES RIDGE DRIVE

NO.	DATE	ISSUE
1	10-21-20	DP SUBMISSION
2	12-22-20	DP REVISION
3	11-18-21	DP REVISION

PROJECT
MENZIES TOWNHOUSES
497 Menzies Ridge Drive
Nanaimo, BC

PROJECT 20006
DB KS **CB** KS
SCALE VARIES
DATE OCTOBER 01, 2020

LANDSCAPE PLAN

L1.02

MENZIES TOWNHOUSES

LANDSCAPE ARCHITECTURAL DRAWINGS ISSUED FOR DEVELOPMENT PERMIT

DESIGN RATIONALE

CONTEXT

497 Menzies Ridge Drive is a 1.35 acre parcel adjacent to Buttertubs Marsh, in central Nanaimo. Surrounded by single family detached homes, the site is a large, undeveloped lot zoned for higher density, multi-family residential development. The proposed Menzies Townhouses will be situated in a landscape designed to support families of all ages with an emphasis on drawing the character, ecological function and aesthetic of the marsh into the urban environment.

DESIGN CONCEPT

The design concept for the Menzies Townhouses is to integrate people, place and plantings into a functional urban ecosystem that accentuates the natural character of the site adjacent to Buttertubs Marsh

- As an expression of the local environment, the planting plan is structured around a foundation of indigenous species that reference shady riparian forests and open marshlands.
- Complementary drought-tolerant ornamentals add character and resilience, and perform vital ecosystem functions necessary to support human life and biodiversity.
- To support the sense of community in a time of physical distancing, outdoor seating areas are situated throughout the development, along internal pathways that unify the site.
- A central open space creates a naturalized play area, with mounds, stepping stone paths and a platform overlooking a densely planted low point designed to evoke the feeling of a marsh. Colourful nest boxes that attract birds into the development emphasize it's location and connection to nature.
- Lush, layered plantings envelop seating areas and pathways. This amplifies a feeling of immersion in the local landscape, and aims toward low long-term maintenance as plantings become healthy, self-organizing systems.
- Living walls literally support plants that attract birds and pollinators, reduce the urban heat island effect, and slow the flow of runoff from developed areas into streams, marshes, and stormwater infrastructure.

DESIGN PRECEDENTS



PLANT PALETTE

Key	Botanical Name	Common Name
Evergreen / Coniferous Trees		
Po	Picea omorika bruns	Serbian Spruce
Deciduous Trees		
Ac	Acer circinatum	Vine Maple
Bn	Betula nigra	River Birch
Ce	Cornus eddies white wonder	Eddies White Wonder Dogwood
Oc	Oemleria caesiformis	June Plum
Pp	Parrotia persica	Persian Ironwood
Pc	Pyrus calleryana	Calleryana Pear
Sj	Syrax japonicus	Japanese snowbell
Evergreen Shrubs		
Au	Arbutus unedo	Strawberry Bush
Gs	Gaultheria shallon	Santal
Mh	Mahonia nervosa	Dull Oregon Grape
Mc	Morella californica	Pacific Wax Myrtle
Vo	Vaccinium ovatum	Evergreen Huckleberry
Deciduous Shrubs		
Cs	Cornus sericea	Red Twig Dogwood
Co	Cotinus coggygria 'Royal Purple'	Smokebush
Ra	Ribes sanguineum	Red Flowering Currant
Sd	Spiraea douglasii esp. douglasii	Hardhack
Sa	Symphoricarpos albus	Snowberry
V	Vaccinium	Blueberry
Groundcovers		
Ac	Achlys triphylla	Vanilla Leaf
Au	Arctostaphylos uva-ursi	Kinnikinnick
Es	Epimedium sp. aureum	Epimedium
Fc	Fragaria chibensis	Coastal Strawberry
Fv	Fragaria vesca	Woodland Strawberry
Oo	Oxalis oregana	Redwood Sorrel
To	Trillium ovatum	Western Trillium
Ferns, Grasses & Perennials		
Am	Achillea millefolium	Yarrow
Bs	Blechnum spicant	Dear Fern
Ck	Calamagrostis Karl Forester	Feather Reed Grass
Ca	Chamerion angustifolium	Fireweed
Dc	Deschampsia cespitosa	Tufted Hairgrass
De	Dryopteris erythrosora	Autumn Fern
Hb	Hakonochloa macra 'Beni Kaze'	Japanese Forest Grass
Im	Iris missouriensis	Western Blue Flag Iris
Ls	Luzula nivea	Snowy woodrush
My	Miscanthus yaku jima	Dwarf Maiden Grass
Nr	Nepeta racemosa	Cat Mint
Pa	Pennisetum alopecuroides 'Hameln'	Dwarf Fountain grass
Pm	Polystichum munifolium	Sword Fern
Sc	Saxifraga caerulea	Blue Moor Grass
Sc	Symphytichium subspicatum	Douglas' Aster
Vines		
Ci	Campsis x tagliabuana 'Madame Galen'	Hybrid Trumpet Creeper
Ca	Clematis armandii	Evergreen Clematis
Lc	Lonicera ciliosa	Orange Honeysuckle
Seeds		
Wild Grass Area: Pickseed Garry Oak Upland Mix or equivalent		89% Roemers Fescue 11% California Oatgrass

RECEIVED
DP 1208
2021-JAN-05

NO.	DATE	ISSUE
1	10-21-20	DP SUBMISSION
2	12-22-20	DP REVISION
3	11-18-21	DP REVISION

PROJECT
MENZIES TOWNHOUSES
497 Menzies Ridge Drive
Nanaimo, BC

PROJECT 20006
DB KS **CB** KS
SCALE NTS
DATE OCTOBER 01, 2020

LANDSCAPE PLAN
DESIGN RATIONALE + PRECEDENTS, PLANT PALETTE

L1.01

ATTACHMENT H
SCHEDULE D - AMENITY REQUIREMENTS
FOR ADDITIONAL DENSITY



755 Terminal Avenue North, Nanaimo, BC V9S 4K1
250.754.2108 • info@rdbarchitect.ca • rdbarchitect.ca

December 23, 2021

497 Menzies Ridge Drive Townhouses – Amenities Provided for Additional Density Rationale
Rev 3

Category 3: Parking and Sustainable Transportation (10 points required)

- A – Long term protected bicycle storage is provided ~~and shower and change room facilities are provided to accommodate building employees where applicable.~~

All units have a designated space for a long term bike storage.
(3 points)

- D – The parking area within the proposed development includes at least one electric vehicle charging station.

4 Common outdoor electric vehicle parking stalls provided in addition to roughing-in all indoor garages.
(1 point)

- F – The proposed development includes covered and designated parking spaces for a motorized scooter or plug-in for an electronic bicycle or electric scooter, or a designated motorcycle parking space to accommodate the following number of spaces:
 - multiple family residential developments: 1 motorized scooter or motorcycle space per 15 dwelling units; and
 - ~~◦ non-residential uses: 1 motorized scooter or motorcycle space per 600m² of Gross Floor Area for the first 5000m² plus one space per 1500m² of additional Gross Floor Area.; and~~
 - a minimum of one electronic plug-in is provided to accommodate at least one electric scooter or electronic bicycle.

All units have designated space for bike, an electronic bicycle or electric scooter with plug-in sockets. Two common electric scooter stalls to be provided on site.
(2 points)

- G – A pedestrian network is included in the proposed development that connects the buildings on the site with the public road right-of-way and, the pedestrian network from the adjacent site to which there is access by perpetual easement or right-of-way, provided the City agrees to accept the right-of-way.

A pedestrian path and emergency vehicles only drive aisle connects Menzies Ridge Drive and Bird Sanctuary Drive (right-of-way) in addition to the pedestrian path in the middle of the development connecting all buildings to the central kids playing area.
(2 points)

- H – Parking does not exceed minimum parking requirements within the City’s Development Parking Regulations Bylaw.

Parking is the minimum required by the City’s Development Parking Regulations Bylaw.
(2 points)

- I – The development includes signage or display(s) regarding sustainable transportation alternatives available on site or within the immediate area.

A sign will be provided (sample will be provided)
(1 point)

10 points achieved / 10 required

Category 5: Energy Management (11 points required)

- A – The proposed development meets at least the requirements of Step 2 of the BC Energy Step Code and exceeds the requirement specified in the Building Bylaw by one step.

The development will be designed to exceed the requirement in the Building Bylaw by one step.
(10 points)

- D – The development includes permanent education signage or display(s) regarding sustainable energy management practices used onsite.

A sign will be provided (sample will be provided)
(1 point)

11 points achieved / 11 required

Category 6: Water Management (8 points required)

- B – The proposed buildings on the property include plumbing features which will use 35% less water than the BC Building Code standard.

Plumbing features which will use 35% less water than the BC Building Code standard will be provided.
(2 points)

- D – A living wall is installed to cover at least 10% of the total available wall area for the proposed project.

Living walls will be installed on at least 10% of the total exterior walls
(2 points)

- F – A water efficient irrigation system (such as drip) is installed.

A water efficient irrigation system (such as drip) will be installed.
(1 point)

- G – The proposed development includes a rain garden, cistern, bioswale or storm water

retention pond on the property.

A subsurface storm water retention/detention system is provided.
(2 points)

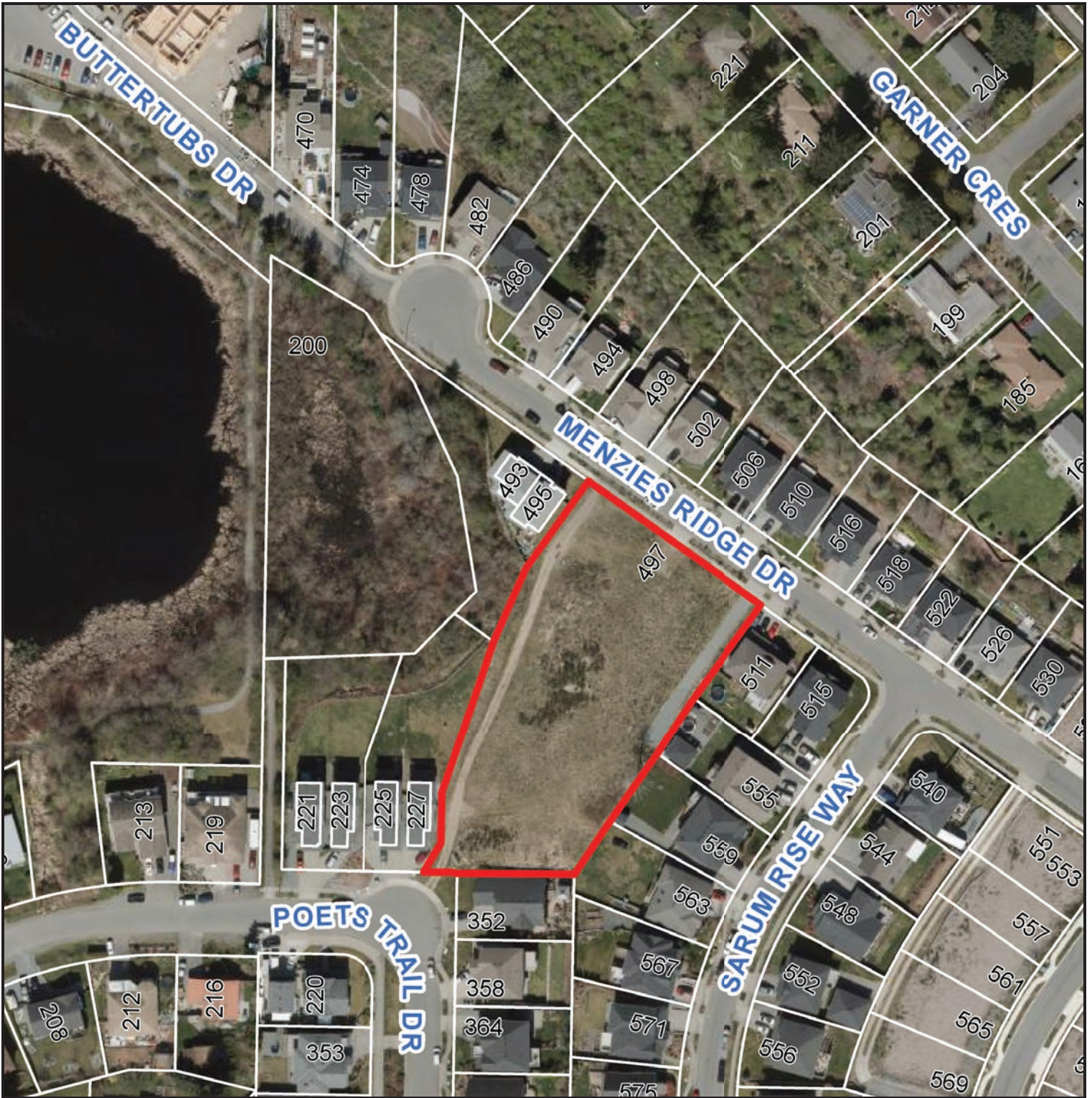
- H – The development site includes permanent educational signage or a display(s) regarding sustainable water management practices used on site.

A sign will be provided (sample will be provided)
(1 point)

8 points achieved / 8 required

Raymond de Beeld, Architect AIBC

ATTACHMENT I
AERIAL PHOTO



DEVELOPMENT PERMIT NO. DP001208



497 MENZIES RIDGE DRIVE

DATE OF MEETING [January 17, 2022]

AUTHORED BY [CALEB HORN, PLANNER, CURRENT PLANNING]

SUBJECT [REZONING APPLICATION NO. RA438 – 5707 LOST LAKE ROAD]

OVERVIEW

Purpose of Report

To present Council with an application to rezone 5707 Lost Lake Road from Single Dwelling Residential (R1) to Low Density Residential (R6) to allow a multi-family residential development.

Recommendation

That:

1. “Zoning Amendment Bylaw 2022 No. 4500.198” (to rezone 5707 Lost Lake Road from Single Dwelling Residential [R1] to Low Density Residential [R6] to allow a multi-family residential development) pass first reading;
2. “Zoning Amendment Bylaw 2022 No. 4500.198” pass second reading; and
3. Council direct Staff to secure road dedication and the community amenity contribution should Council support the bylaw at third reading.

BACKGROUND

A rezoning application, RA438, was received from Straight Street Design on behalf of Wu Sheng Jun. The applicant proposes to amend the “City of Nanaimo Zoning Bylaw 2011 No. 4500” (the “Zoning Bylaw”) and rezone the subject property to the Low Density Residential (R6) zone for a townhouse development.

Subject Property and Site Context

<i>Location</i>	The subject property is located on the south side of Lost Lake Road at the intersection with Vanderneuk Road.
<i>Total Lot Area</i>	2,930m ²
<i>Current Zoning</i>	Single Dwelling Residential (R1)
<i>Proposed Zoning</i>	Low Density Residential (R6)
<i>Official Community Plan (OCP) Future Land Use Designation</i>	Neighbourhood
<i>Neighbourhood Plan Land Use Designation</i>	n/a

The subject property is relatively flat and currently contains a single residential dwelling and accessory building. The property is triangular in shape, abutting Lost Lake Road to the north and Vanderneuk Road to the south. The surrounding neighbourhood consists of low-density residential properties. Adjacent land uses include single residential dwellings to the west, north,

and east, and a nine-unit multi-family townhouse development to the south at 5705 Vanderneuk Road. There are a number of parks and walking trails in the vicinity, and the nearest commercial services are approximately 750m away on Rutherford Road and Nelson Street.

DISCUSSION

Proposed Development

The applicant proposes to rezone the property to the Low Density Residential (R6) zone to facilitate a ground-oriented residential development. The R6 zone allows for low-density multi-family residential uses with a base maximum permitted Floor Area Ratio (FAR) of 0.45. The maximum height of a building in the R6 zone is 7m for a flat-roof building, and 9m for a pitched-roof building, the same maximum height as permitted under the existing Single Dwelling Residential (R1) zone.

The conceptual plans for the site envision a townhouse development with a total of eight dwelling units and an FAR of 0.35, below the maximum permitted R6 density. All existing structures will be removed through redevelopment. The development plans show two 2-storey triplex buildings facing Lost Lake Road and a 2-storey duplex building facing Vanderneuk Road. The applicant has demonstrated that all required parking can be accommodated on site and no variances are anticipated at the Development Permit stage.

Policy Context

Official Community Plan

The Official Community Plan (OCP) identifies the subject property within the Neighbourhood future land use designation. Development in Neighbourhoods is characterized by a mix of low-density residential uses. Densities from 10 to 50 units per hectare (uph) in two- to four-storey building forms are generally supported by the OCP. The conceptual development plans would equal approximately 27 uph. Under the Neighbourhood designation, the OCP states that the “infill of residential lots is encouraged and will be designed to complement existing neighbourhood character, including the ground-oriented nature of existing housing”.

The proposed zoning would allow for an infill development with ground-oriented multi-family residences, and the rezoning meets the intent of the OCP future land use designation.

Transportation Master Plan

The subject property is not located within a Mobility Hub, as identified by the Nanaimo Transportation Master Plan, and there are no transit routes in the immediate area. There is a sidewalk on the north side of Lost Lake Road that connects to Rutherford Road via Vanderneuk Road and can be accessed from the subject property by a crosswalk across Lost Lake Road. Road dedication will be taken from the frontage of the subject property as a condition of this rezoning application, and a sidewalk will be installed as part of the site’s redevelopment through required frontage works. As the neighbourhood is largely automobile-dependent, all necessary parking will be required at the development permit stage.

Affordable Housing Strategy

The Nanaimo Affordable Housing Strategy supports infill in existing low-density areas and diversifying housing forms in all neighbourhoods. The proposed rezoning aligns with the Strategy objectives by providing the opportunity for a modest increase in density within an existing neighbourhood and allowing a mix of unit types and sizes.

Community Consultation

The subject property lies within the area of the Lost Lake Neighbourhood Association and was referred for their comment. The association responded that there are general concerns among neighbours regarding traffic, pedestrian infrastructure, and services.

The applicant hosted a Neighbourhood Information Meeting on 2021-NOV-05 at the subject property. Comments received from neighbours at the meeting and through correspondence with Staff include concerns regarding traffic, increased density, and noise from construction, with responses from Staff outlined below.

1. *Traffic* – Staff have been actively reviewing traffic along Lost Lake Road and Vanderneuk Road for several years. No capacity issues have been identified; however, concerns with driver behaviour have been identified. To address these concerns, the Lost Lake Road Traffic Calming & Slow Street Pilot Project was implemented in 2021. This pilot project includes speed humps, raised crosswalks, and other measures to reduce vehicle speeds on Lost Lake Road. Staff are continuing to monitor traffic conditions to determine what additional measures may be necessary, but these issues are related to existing conditions and are not related to any proposed increase in density.
2. *Density* – The proposed increase in density is modest and within the range expected in low-density neighbourhoods as measured in proposed units per hectare (27 uph) and Floor Area Ratio (0.35). Under the existing Single Dwelling Residential (R1) zone, the subject property would have enough area to subdivide into five lots with a single residential dwelling and secondary suite on each lot; however, the lot geometry is not conducive to subdivision. As such, the proposed rezoning will allow for adequate opportunity to achieve the desired residential low density.
3. *Construction* – Comments from neighbours have included concerns regarding noise and disruption from construction. This is not immediately connected to the proposed rezoning, as construction can occur under any zone including the existing R1 zone. Many of the comments are related to the ongoing construction at 5705 Vanderneuk Road to the south, and it should be noted that the subject property is flat and construction is not expected to require rock chipping as was required at 5705 Vanderneuk Road.

Community Amenity Contribution

In exchange for the increase in permitted density, the applicant is encouraged to provide a Community Amenity Contribution (CAC) with a value equal to \$1,000 for each dwelling unit proposed. For their CAC, the applicant is proposing to install a sidewalk on the south side of Lost Lake Road between the subject property and Altavista Drive, approximately 20m to the

east, to provide better pedestrian connectivity in the neighbourhood. These extraordinary frontage works would be carried out at the same time as the required frontage works during site redevelopment. The value of the extraordinary works is expected to equal or exceed \$8,000, the CAC amount that would typically be anticipated. Should a sidewalk at this location be completed by others prior to building permit issuance, a monetary contribution equal to \$1,000 per proposed dwelling unit will be secured towards active transportation improvements in the neighbourhood. Staff support the proposed CAC.

Conditions of Rezoning

Should Council support this application and pass third reading of “Zoning Amendment Bylaw 2022 No. 4500.198”, Staff recommend the following items be secured prior to final adoption of the bylaw:

1. *Road Dedication* – Road dedication of between 2.602m and 5.519m wide along Lost Lake Road, as shown in registered Plan #3491RW.
2. *Community Amenity Contribution* – The installation of a sidewalk to meet City of Nanaimo engineering standards on the south side of Lost Lake Road between the subject property and Altavista Drive; or, should the works be completed by others prior to building permit issuance, a monetary contribution equal to \$1,000 per proposed dwelling unit to be used towards active transportation improvements in the neighbourhood.

SUMMARY POINTS

- The application is to rezone the subject property from Single Dwelling Residential (R1) to Low Density Residential (R6) to allow a multi-family residential development.
- The conceptual plans for the site envision a townhouse development with a total of eight dwelling units.
- The proposed zoning would allow for an infill development with ground-oriented multi-family residences, and the rezoning meets the intent of the OCP future land use designation.
- Road dedication and a Community Amenity Contribution of a sidewalk connection to Altavista Drive will be secured as a condition of rezoning.

ATTACHMENTS

ATTACHMENT A: Context Map
ATTACHMENT B: Location Plan
ATTACHMENT C: Conceptual Site Plan
ATTACHMENT D: Conceptual Building Renderings
ATTACHMENT E: Aerial Photo
“Zoning Amendment Bylaw 2022 No. 4500.198”

Submitted by:

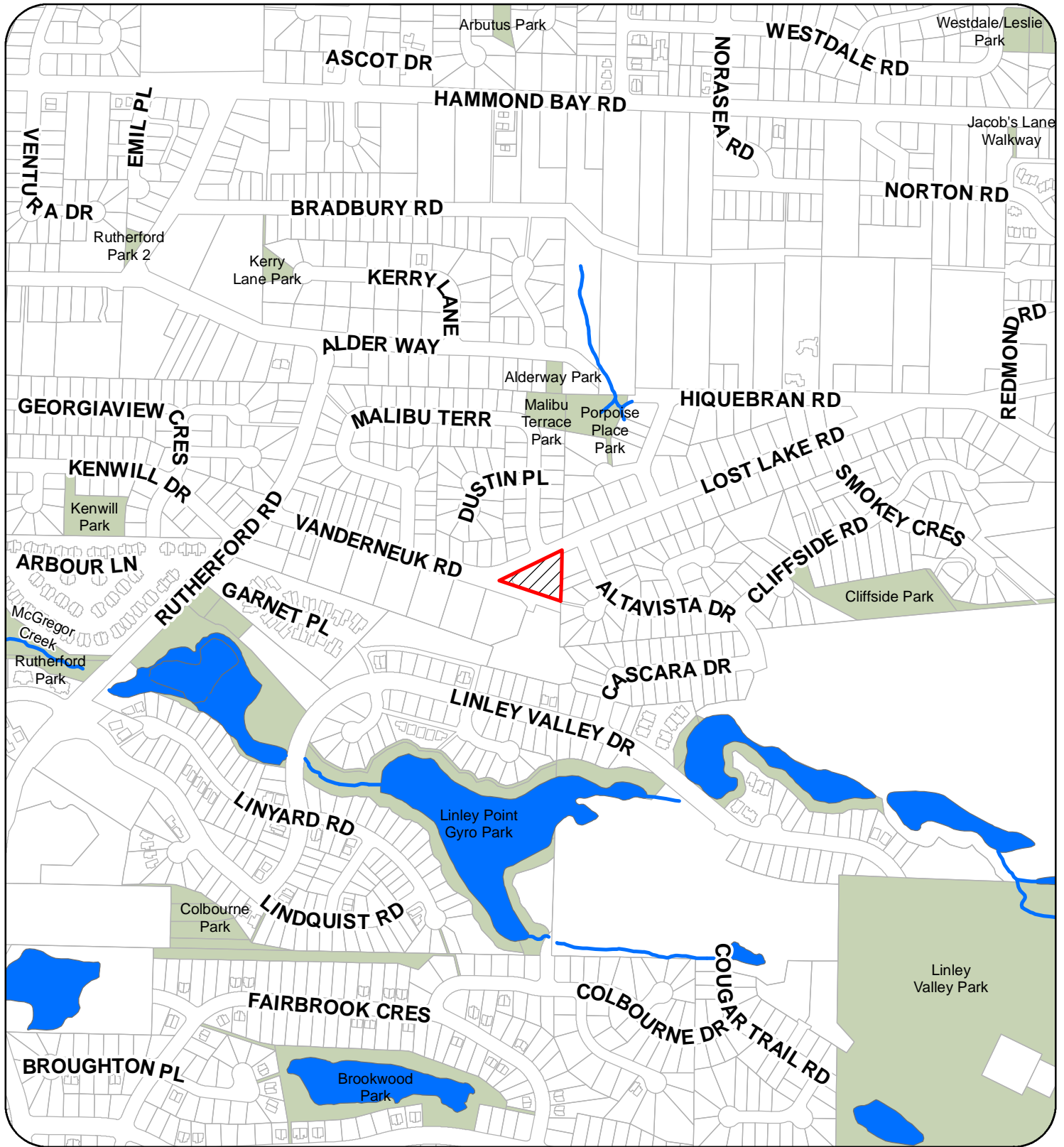
Lainya Rowett
Manager, Current Planning

Concurrence by:

Jeremy Holm
Director, Development Approvals

Dale Lindsay
GM, Development Services/Deputy CAO

ATTACHMENT A CONTEXT MAP

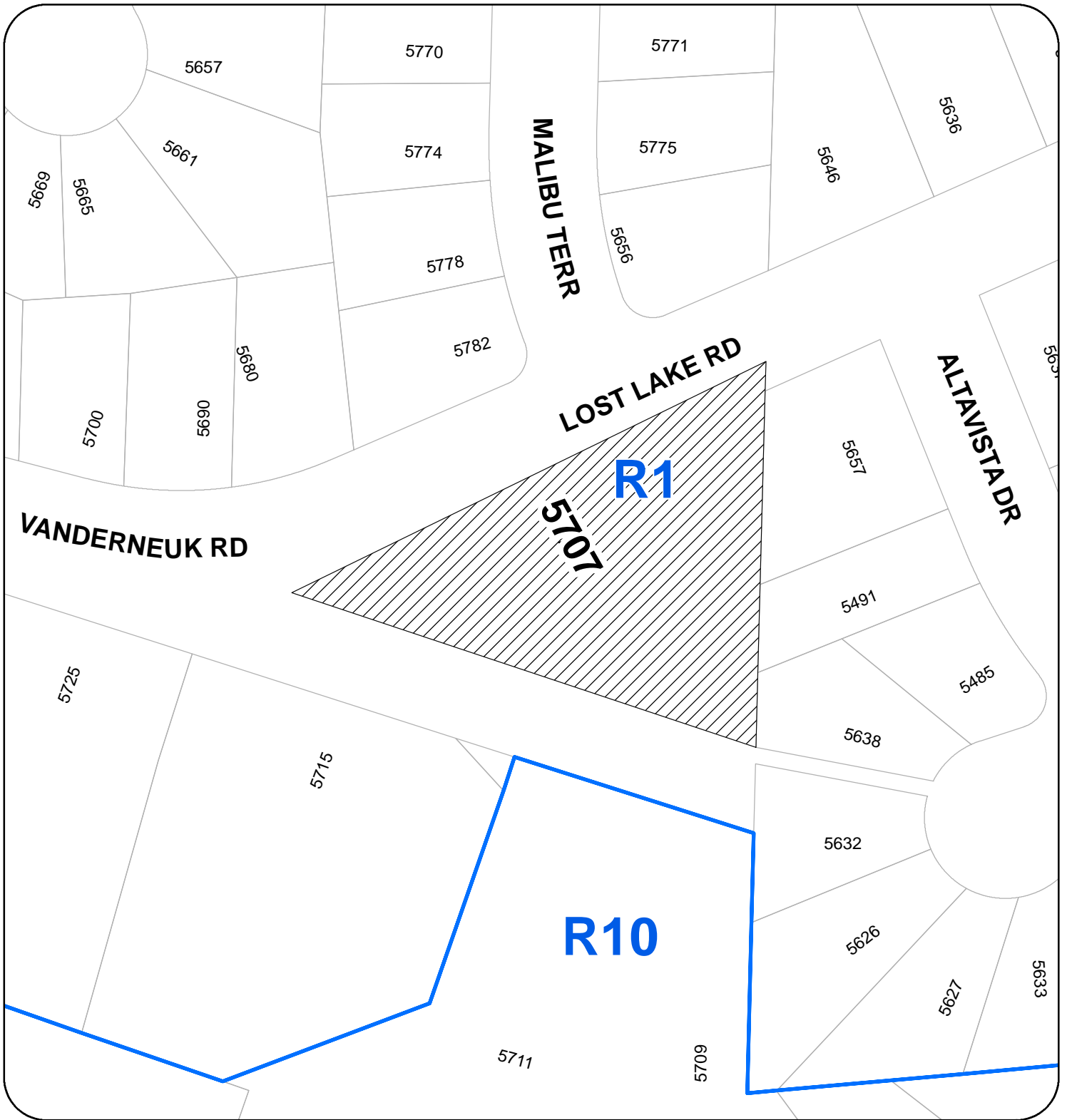


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5707 LOST LAKE ROAD

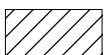
**ATTACHMENT B
LOCATION PLAN**



REZONING APPLICATION NO. RA000438

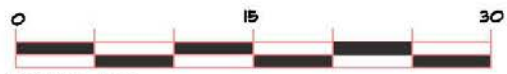
LOCATION PLAN

CIVIC: 5707 LOST LAKE ROAD
LEGAL: LOT H DISTRICT LOT 32
WELLINGTON DISTRICT PLAN VIP3009



SUBJECT PROPERTY

ATTACHMENT C CONCEPTUAL SITE PLAN



SCALE 1:400
 DIMENSIONS SHOWN ON THIS SITE PLAN ARE DERIVED FROM EXISTING LAND TITLE RECORDS.
 DISTANCES SHOWN ARE IN METRES.

RECEIVED
RA438
2021-SEP-03
 Current Planning

ATTACHMENT D
CONCEPTUAL BUILDING RENDERINGS



COLOUR VIEW
LOOKING FROM LOST LAKE ROAD



COLOUR VIEW FROM INTERNAL PARKING AREA

RECEIVED
RA438
2021-SEP-03
Current Planning

**ATTACHMENT E
AERIAL PHOTO**



N



LEGEND

 SUBJECT PROPERTY

REZONING APPLICATION NO. RA000438

CITY OF NANAIMO

BYLAW NO. 4500.198

A BYLAW TO AMEND THE "CITY OF NANAIMO ZONING BYLAW 2011 NO. 4500"

WHEREAS the Council may zone land, by bylaw, pursuant to Sections 464, 465, 469, 477, 479, 480, 481, 482, and 548 of the *Local Government Act*,

THEREFORE BE IT RESOLVED the Municipal Council of the City of Nanaimo, in open meeting assembled, ENACTS AS FOLLOWS:

1. This Bylaw may be cited as the "Zoning Amendment Bylaw 2022 No. 4500.198".
2. The "City of Nanaimo Zoning Bylaw 2011 No. 4500" is hereby amended as follows:

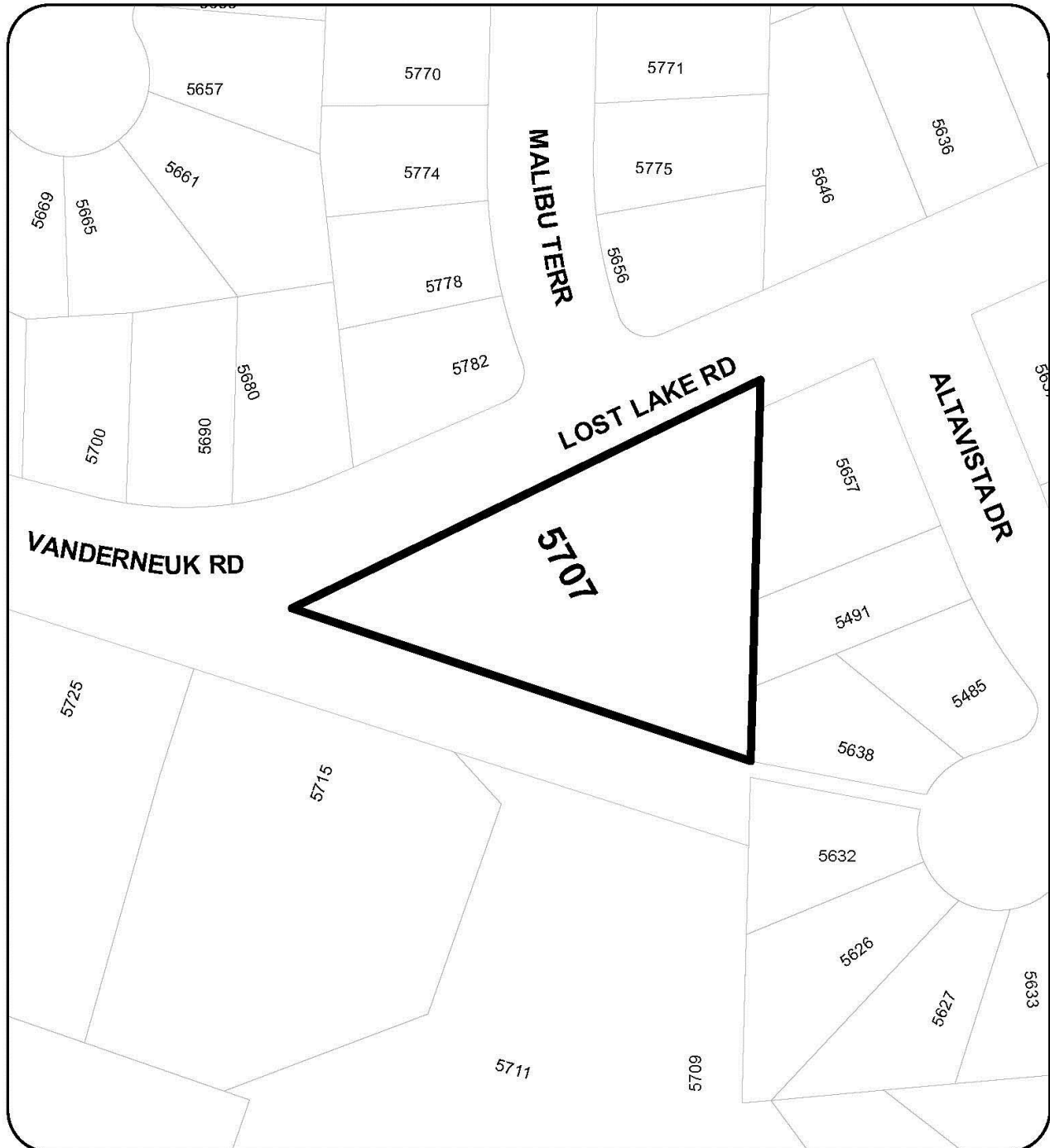
By rezoning the lands legally described as LOT A, DISTRICT LOT 32, WELLINGTON DISTRICT, PLAN EPP92519 (5707 Lost Lake Road) from Single Dwelling Residential (R1) to Low Density Residential (R6) as shown on Schedule A.

PASSED FIRST READING: _____
PASSED SECOND READING: _____
PUBLIC HEARING HELD: _____
PASSED THIRD READING: _____
ADOPTED: _____

MAYOR

CORPORATE OFFICER

SCHEDULE A



N



REZONING APPLICATION NO. RA000438

CIVIC: 5707 LOST LAKE ROAD



SUBJECT PROPERTY

DATE OF MEETING January 17, 2022

AUTHORED BY LISA BRINKMAN, PLANNER, CURRENT PLANNING

SUBJECT LIQUOR LICENCE APPLICATION NO. LA145 – 1431 BOWEN ROAD

OVERVIEW

Purpose of Report:

To provide Council with information regarding an application that has been received to amend the existing liquor licence at 1431 Bowen Road (Quarterway Pub) to permit an outdoor patio.

BACKGROUND

A notice of application was received from Nadine Holdings Ltd. requesting a local government resolution in support of their licence amendment application to the Provincial Liquor and Cannabis Regulation Branch (LCRB) to permit an outdoor patio at the Quarterway Pub at 1431 Bowen Road.

DISCUSSION

The Quarterway Pub and liquor store are currently located on the property at 1431 Bowen Road, which is zoned 'Community Corridor' (COR3). A pub has been located on the property since 1879, and the liquor store was built in 2003. The applicant has provided a letter of rationale for the proposed change to the liquor licence (see Attachment E). The outdoor patio is proposed to be approximately 86m² in size, contain 40 seats, and would be open from May to September each year. The patio would be adjacent to the lounge area and access to the patio would be from the interior of the building. If the proposed patio is supported, the maximum capacity for the business would remain at 123 persons.

During the pandemic, temporary outdoor patios were supported by the LCRB and the City of Nanaimo, thus the Quarterway Pub had a temporary outdoor patio during the 2020 and 2021 summer seasons. The LCRB has advised that, moving forward, the temporary patios must either be removed, or a liquor licence amendment application must be submitted to the LCRB requesting a permanent outdoor patio. In accordance with the review process utilized prior to the pandemic, the LCRB has requested that liquor licence amendment applications be reviewed in terms of the following criteria:

- The location of the establishment;
- The proximity of the establishment to other social or recreational facilities;
- The person capacity and hours of service of the establishment;
- The impact of noise on the community in the immediate vicinity; and
- The impact on the community if the application is approved.

Staff will comment on each of these factors in a future report after public comments have been received. The next step will be for Staff to mail and hand deliver a Public Notice to the owners and occupants of all buildings within a 100 metre radius of the subject property to inform them of the proposed liquor licence amendment, and to obtain neighbourhood input. |

SUMMARY POINTS

- An application has been received to amend the existing liquor licence at 1431 Bowen Road (Quarterway Pub) to permit an outdoor patio.
- Staff will proceed with the public notification to gather the views of nearby residents and business owners.
- A summary of public comments and an evaluation of community impacts will be brought to Council for consideration in a future report.

ATTACHMENTS

ATTACHMENT A: Context Map
ATTACHMENT B: Location Plan
ATTACHMENT C: Site Plan
ATTACHMENT D: Floor Plan (patio)
ATTACHMENT E: Letter of Rationale
ATTACHMENT F: Aerial Photo |

Submitted by:

Lainya Rowett
Manager, Current Planning |

Concurrence by:

Jeremy Holm
Director, Development Approvals

Dale Lindsay
GM, Development Services/Deputy CAO |

ATTACHMENT A CONTEXT MAP



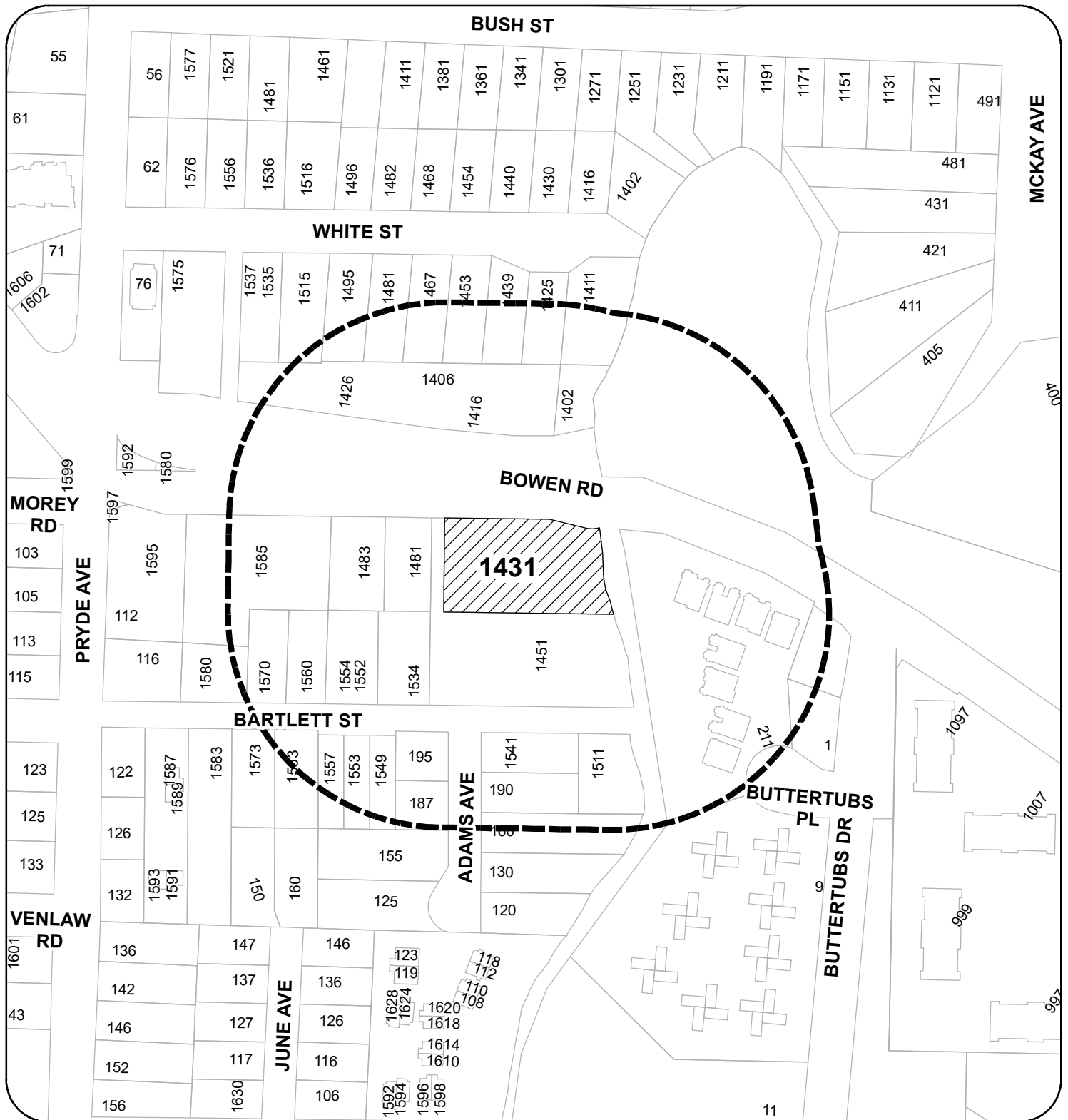
LIQUOR LICENCE APPLICATION NO. LA000145

N



1431 BOWEN ROAD

ATTACHMENT B LOCATION PLAN





N



LIQUOR LICENCE APPLICATION NO. LA000145

LOCATION PLAN

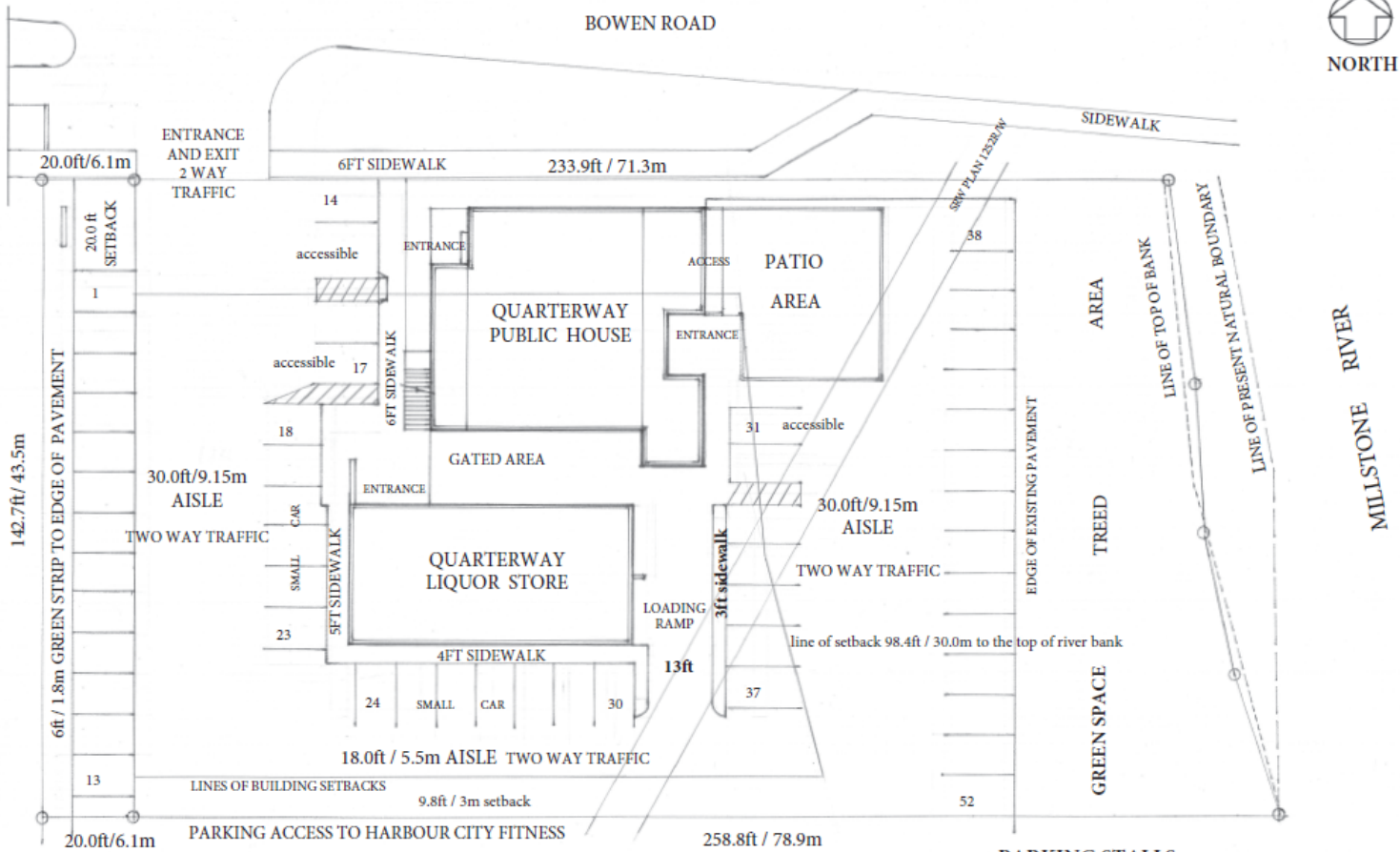
Legend

-  Subject Property
-  Buffer (100m)

Civic: 1431 BOWEN ROAD

Legal: LOT 2, SUBURBAN LOT 7, SECTION 1, NANAIMO DISTRICT PLAN 6025, EXCEPT PARTS IN PLANS 31163 AND EPP12275

ATTACHMENT C SITE PLAN



SCALE: 0 10 20 30 FEET

PARKING STALLS

1 to 13	- 9x15ft / 2.75x4.5m
14 to 17	- 9x15ft / 2.75x4.5m (15, 17 accessible)
18 to 23	- 9x14ft / 2.75x4.3m small car
24 to 30	- 9x14ft / 2.75x4.3m small car
31 to 37	- 9x16ft / 2.75x4.9m (31 accessible)
38 to 52	- 9x16ft / 2.75x4.9m

QUARTERWAY PUB - 1431 BOWEN ROAD

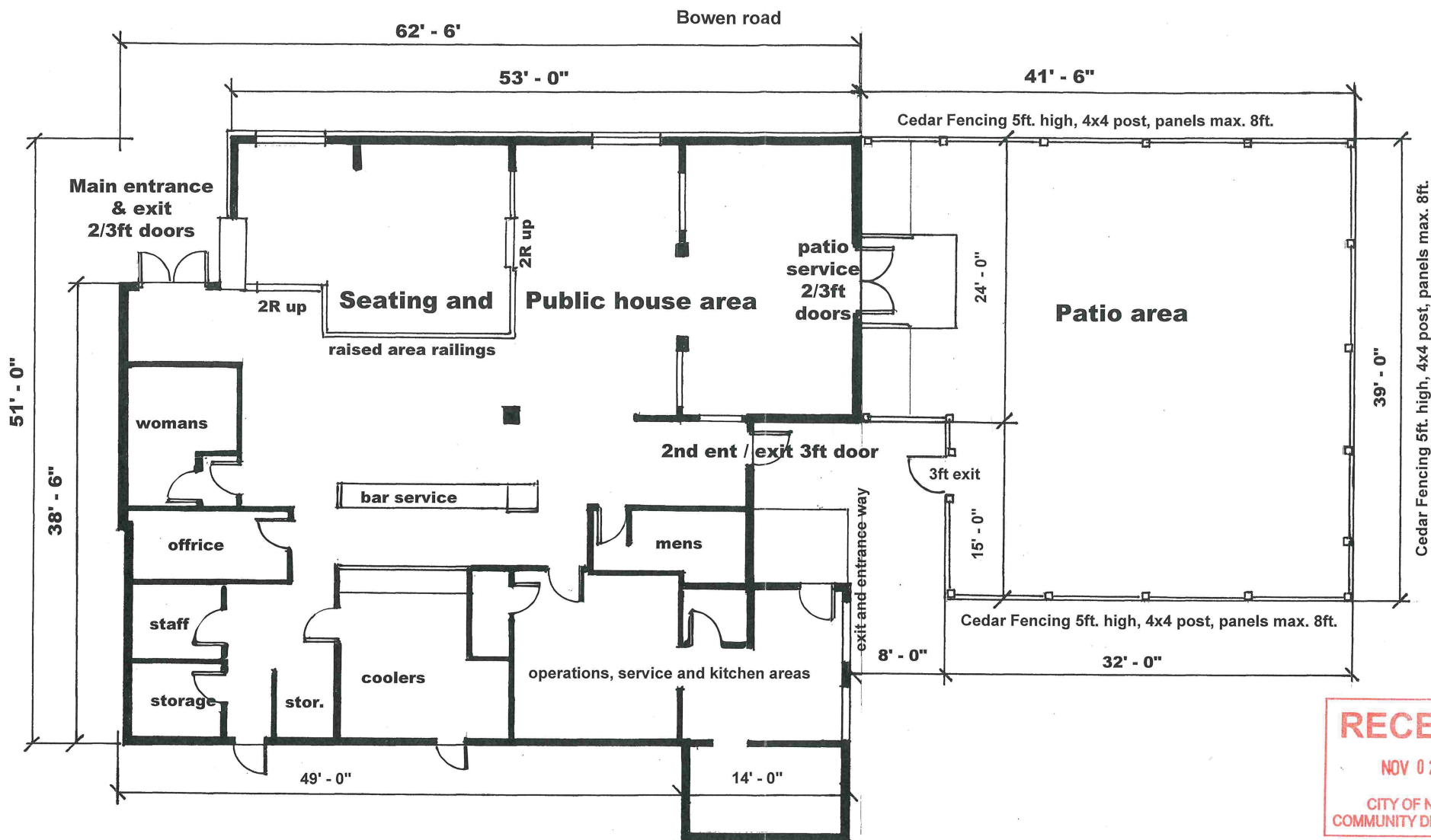
SITE PARKING LAYOUT and STRUCTURES

Quarterway Public House - Site Parking and Patio location - 1431 Bowen Road, Nanaimo, BC

RECEIVED
LA 145
2021-DEC-13
CITY OF NANAIMO

KD 21-12-01

ATTACHMENT D FLOOR PLAN (PATIO)



RECEIVED
NOV 02 2021
CITY OF NANAIMO
COMMUNITY DEVELOPMENT

QUARTERWAY PUB MAIN FLOOR and PATIO PLAN - Liquor primary #5852 - 1431 Bowen Rd., Nanaimo, BC

SCALE: 0 4 8FT

occupant load 123 patrons

KD 21-10-02
SHEET 1

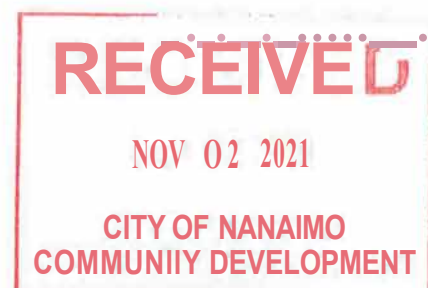
**ATTACHMENT E
LETTER OF RATIONALE**

Community Impact Statement
Quarterway Pub Patio
1431 Bowen Road

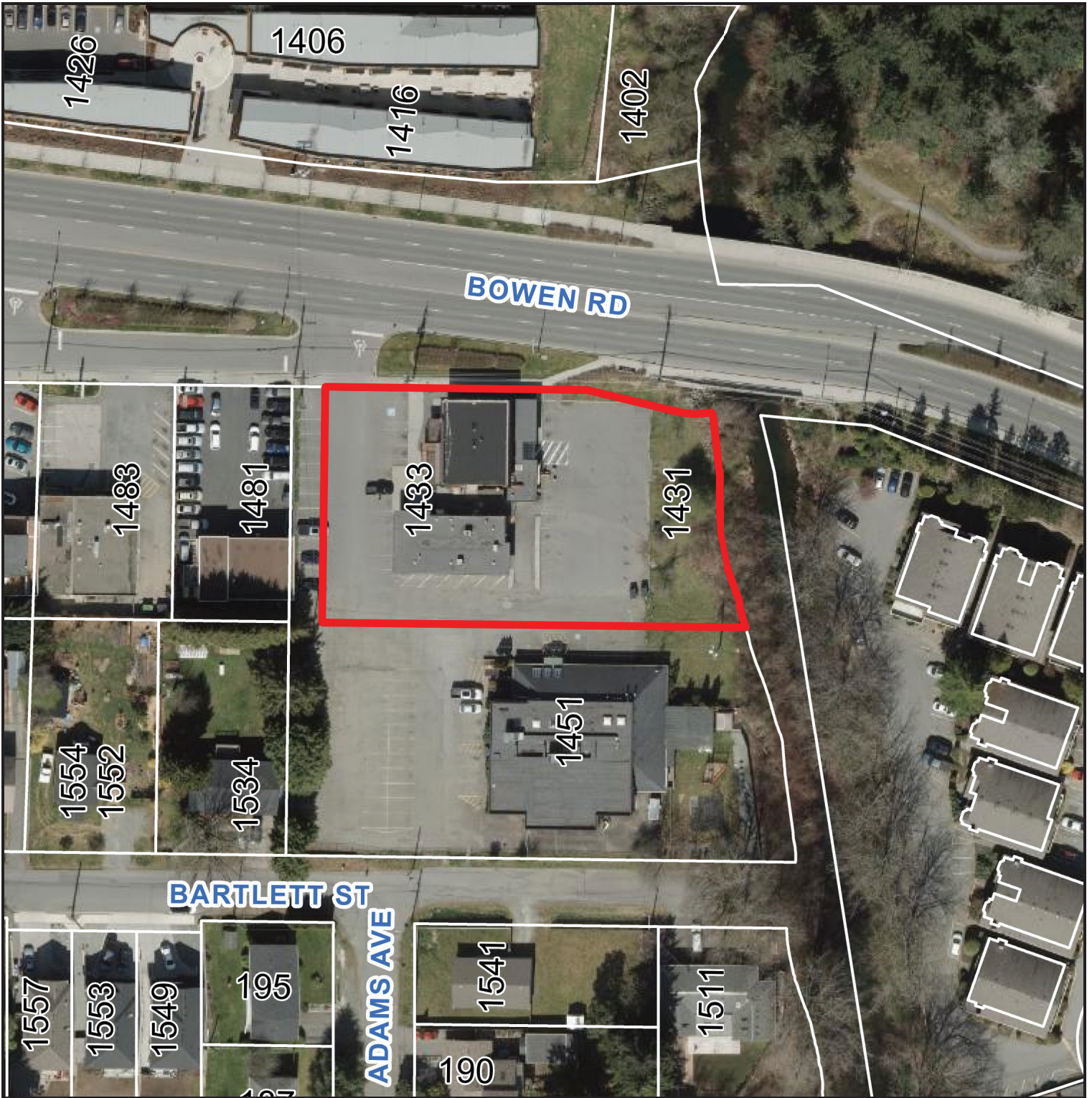
The Quarterway Pub has applied to the LCRB to make our Temporary Extended Seating Area (TESA) permanent. We have operated the TESA for the past 2 summers to provide a safe area where customers can come dine-in and feel safe due to Covid 19. We were very successful in managing the patio with no impact to our surrounding community. If we get approval for our new outdoor patio, we will put an entrance to the patio from the inside of our lounge area to make it more secure so customers can only come and go through the pub. We have 5 foot high fencing creating a secure patio area. As I said before, operating the patio for the past 2 summers, the city can check with our RCMP and will find there have been no problems on the patio and no complaints from our surrounding neighbours. The patio was a huge success for us this summer helping increase our sales and would like to continue doing so for future summers to come.

Thank you


Marty Morelli
Quarterway Pub & Lrs
Owner / Operator



ATTACHMENT F
AERIAL PHOTO



LIQUOR LICENCE APPLICATION NO. LA000145

 1431 BOWEN ROAD

DATE OF MEETING January 17, 2022

AUTHORED BY SEAN REILLY, PROPERTY AGENT, REAL ESTATE

**SUBJECT APPROVAL OF NANAIMO YACHT CLUB LEASE RENEWAL – 400
NEWCASTLE AVENUE**

OVERVIEW

Purpose of Report

To obtain Council approval to establish the 2022-2026 rent for the Nanaimo Yacht Club lease of City-owned property at 400 Newcastle Avenue.

Recommendation

That Council:

1. set an annual market rent of \$179,659 to be charged to the Nanaimo Yacht Club for the 2022-2026 lease renewal;
2. provide annual assistance of \$71,863 to the Nanaimo Yacht Club, in recognition of its contribution to the community, by way of rent abatement; and
3. authorize the Mayor and Corporate Officer to execute the 2022-2026 Lease Renewal Agreement.

BACKGROUND

The Nanaimo Yacht Club (“NYC”) has been in existence for 90 years and is located at 400 Newcastle Avenue (the “Property”, Attachment A). The NYC occupies 4.95ha (12.23 acres) of land and water. Included in this area is a fee-simple parcel owned by the NYC ((0.25ha (0.63 acres)), a water lot leased from the Nanaimo Port Authority (“NPA”) ((3.81ha (9.42 acres))) and the upland portion leased from the City comprising 0.88ha (2.18 acres).

The NYC has leased the City-owned land for 40 years. Prior to 2007 the NYC leased the City-owned portion of the Property for a nominal \$1 per annum until there were significant changes to the *Community Charter* which prohibited local government from providing assistance to businesses, in forms such as, loans or leases that are below market value. The current 30-year lease started in 2007 and requires rent reviews every five years.

The lease rate is calculated using the following formula:

- Market Value of Lease (determined by an appraiser) **less** the value of the Community Contribution of the NYC to the City.

The 2017-2021 rent was set at \$160,020 with a reduction of \$53,540 to reflect the NYC’s contribution to the community. The annual net rent received by the City during the previous term was \$106,480.

DISCUSSION

The lease is entering the third renewal period (2022-2026). A professional appraiser, engaged by the City determined the market value of the lease area to be \$179,659 per annum. The NYC have requested a discount of \$71,863 per annum to reflect their contribution to the community. The net rent received by the City would be \$107,796 per annum.

The NYC outlined the rationale for the community contribution discount in a formal letter to Council (Attachment B). A brief summary of some of the NYC's benefits to the community include:

- Attract visitors to Nanaimo – the NYC has reciprocal agreements with other yacht clubs, resulting in a large number of visiting boats annually who moor and reprovision in Nanaimo;
- Subsidized Junior Sail Training Program to encourage youth to experience sailing and watersports;
- Host the annual Basil Hobbs Snake Island Nanaimo Regatta; and
- Provide employment for summertime students to help manage the marina.

Statutory Notice of the lease renewal and community contribution discount have been advertised in the local newspaper for two consecutive weeks as required under Section 26 and 24 of the *Community Charter*. Council is in a position to approve the annual rent for the third term of the lease and the associated discount that reflects the NYC's contribution to the community.

OPTIONS

1. That Council:

1. set an annual market rent of \$179,659 to be charged to the Nanaimo Yacht Club for the 2022-2026 lease renewal;
2. provide annual assistance of \$71,863 to the Nanaimo Yacht Club, in recognition of its contribution to the community, by way of rent abatement; and
3. authorize the Mayor and Corporate Officer to execute the 2022-2026 Lease Renewal Agreement;
 - The advantages of this option: This approach is consistent with the terms of the lease. Setting the rent for a third renewal term provides certainty for the NYC and the City.
 - The disadvantages of this option: Determining the annual value of the community contribution of the NYC to the City is difficult and there may be some members of the community who disagree with the value.
 - Financial Implications: The City will receive \$107,796 per annum for the next five years, this equates to \$538,980 over the five-year term. The funds support the general operation of the City (General Revenue).

2. That Council:

1. set an annual market rent of \$179,659 to be charged to the Nanaimo Yacht Club for the 2022-2026 lease renewal;

2. provide direction to Staff on the discount to be granted to the Nanaimo Yacht Club, in recognition of the Nanaimo Yacht Club’s contribution to the community; and
 3. authorize the Mayor and Corporate Officer to execute the 2022-2026 Lease Renewal Agreement.
 - The advantages of this option: The annual market rent has been established by the appraiser (\$179,659 per annum). Council has discretion to set the level of discount to the NYC for its contributions to the community. The City could receive a larger gross rent if Council provided a smaller discount to the NYC.
 - The disadvantages of this option: Selecting a different discount would be inconsistent with Council’s commitment to the NYC and may impact the relationship. The statutory notices for the lease with the revised discount would need to be posted in the local newspaper.
 - Financial Implications: If Council provides alternate direction on the community contribution Staff will revise the budget accordingly.
3. That Council provide alternative direction to Staff. |

SUMMARY POINTS

- The Nanaimo Yacht Club (NYC) lease 0.88ha (2.18 acres) of land and water from the City of Nanaimo at 400 Newcastle Avenue. The City lease is part of a larger Property which includes a water lot lease from the Nanaimo Port Authority and a fee-simple parcel owned by the NYC.
- The current 30-year lease between the City and NYC started in 2007 and requires rent reviews every five years.
- Council is being asked to set the rent for the next five-year period (2022-2026).
- An appraiser determined the market rent for the next five years to be \$179,659 per annum.
- NYC have requested that Council provide a discount of \$71,863 per annum in recognition of their contribution to the community.
- The net annual rent received by the City will be \$107,796 during the term.
- Statutory Notice has taken place as required under the *Community Charter*.

ATTACHMENTS:

ATTACHMENT A: Lease Area
ATTACHMENT B: Correspondence from the NYC

Submitted by:

Bill Corsan
Director, Corporate and Business
Development |

Concurrence by:

Laura Mercer
Director, Finance |


ATTACHMENT A



LEASE RENEWAL

Civic: 400 Newcastle Avenue



 Current Lease Area = 2.18 acres
(8,840 sq m)

 FL081

 Fee Simple PID: 010-768-254

ATTACHMENT B
NANAIMO YACHT CLUB
400 Newcastle Avenue, Nanaimo, BC
June 2021

We appreciate this opportunity to review the lease the Nanaimo Yacht Club has with the City Of Nanaimo.

Some reviewers of our lease may not be familiar with our Club, so we would like to give an overview and list some of our contributions to the City of Nanaimo.

History of the Nanaimo Yacht Club

- First established 1931
- We are celebrating our 90th birthday this year.
- We are the only boat moorage facility on the waterfront that is not a private business, but a not-for-profit society established to encourage a safe, on-the-water boating and sailing experience.
- All costs of running the Club is borne by members.
- Our members are from all walks of life, teachers, mill workers, forestry workers city workers, entrepreneurs, technicians and so on. No, we're not a club for the "rich and famous" of Nanaimo.
- Our Club has been built by volunteers. A prime illustration of this is the almost-completed "A" Shed project which had a budget of \$700,000 that was built almost exclusively by Club members.
- We employ two full time and two part time employees.
- Six to eight summer students are hired over the summer
- Current membership is about 735 of whom thirty are junior members and ninety senior members.
- Our moorage capacity is about 370 slips.

Benefits of the Nanaimo Yacht Club to our Community

- We act as City Ambassadors by welcoming out-of-town visitors.
- 900 boat nights at our Club during the latest pre-COVID year, feeding our local economy by an estimated \$450,000.
- We provide the only junior sailing school in our area, to which we subsidize \$20,000 per annum and proud to do so. This year, our NYC Sailing School was nominated for Greater Nanaimo Chamber of Commerce Business Awards in two not-for-profit categories.
- Our guests impressions of Nanaimo: Gorgeous Harbour, Pretty City, Nice Walkway, Wonderful Club facilities and services, so great to see young people learning how to sail.
- Flowers and flags always welcome local passersby.
- We provide our upper hall to various Nanaimo organizations for their meetings free of charge, including: Probus, Nanaimo Power and Sail Squadron, Blue Water Cruising Society, RCM-SAR among others.

**Nanaimo Yacht Club
Annual Impact on the Local Economy
June 2021**

Impact on the Local Economy	Estimated Impact
Visitors to Nanaimo - Annual Visit of 900 Boats (est. \$500/boat)	\$450,000
Annual Basil Hobbs SIN Regatta - 30 Visiting Boats	\$20,000
Subsidized Junior Sail Training Programs - 200+ Students with 10 weeks of programs	\$20,000
Summer Student Employment - 8 Students	\$45,000
370 Club Members Local Expenditures - Repairs, supplies, fuel, insurance, etc. (est. \$2,500/boat)	\$925,000
Club Facilities Spending	
Staff Wages	\$195,000
Maintenance	\$100,000
Utilities	\$75,000
Property Tax and Lease	\$230,000
Community Involvement	
Financial Donations - City Museum, Harbour Watch, Marine Parks	\$4,000
Non-Financial Donations - Use of Hall Facility, Moorage for RCMP Vessel	
Community Events - Harbour Christmas Light Cruise, Children's Easter Egg Hunt on Newcastle Ave., Silly Boat Regatta, MS/Visually Impaired Cruise, Dragon Boat Festival	
Total Estimated Impact	\$2,064,000

DATE OF MEETING January 17, 2022

AUTHORED BY BILL CORSAN, DIRECTOR, CORPORATE AND BUSINESS DEVELOPMENT

SUBJECT APPROVAL OF ARTICLES OF INCORPORATION AND SHAREHOLDER AGREEMENT FOR THE NANAIMO PROSPERITY CORPORATION

OVERVIEW

Purpose of Report

To seek Council approval to establish the Nanaimo Prosperity Corporation by formally approving the Articles of Incorporation and Shareholder Agreement. |

Recommendation

That Council:

1. approve the Articles of Incorporation and Shareholder Agreement for the Nanaimo Prosperity Corporation;
2. appoint a Council member as a non-voting director to the Board of the Nanaimo Prosperity Corporation until November 2022; and
3. direct Staff to work with the Nanaimo Prosperity Corporation shareholders to host the inaugural Board meeting no later than 2022-MAR-30.

BACKGROUND

Council has expressed a strong commitment to economic development. The *2019-2022 Strategic Plan* identifies Economic Health as one of the four pillars. The plan specifically identifies the need to select an economic development model and complete an Economic Development Strategy.

Considerable work has been advanced on the economic development file in the past three years. A review of the Economic Development Function was completed in the fall of 2019. Council established the Economic Development Task Force (EDTF) to prepare an economic development strategy and to further define the economic development corporation. This work was completed at the end of 2020.

At the 2021-FEB-01 Council Meeting, it was moved that Council:

- “1. endorse the final Economic Development Strategy;
2. endorse the External Corporation Charter; and
3. direct Staff to work with the Class B shareholders to prepare Letters of Incorporation and return to an upcoming meeting for Council approval.” |

Since February 2021, the City and the shareholders have met on numerous occasions to develop and review the Articles of Incorporation and the Shareholders Agreement for the Corporation.

The final agreements have also been approved by the Inspector of Municipalities as required under Section 185[1]) of the *Community Charter*.

The City is now in a position to formally establish the Nanaimo Prosperity Corporation.

Nanaimo Prosperity Corporation – Articles of Incorporation & Shareholder Agreement

The framework for the Nanaimo Prosperity Corporation (NPC) was originally developed by the EDTF with the assistance of Neilson Strategies. In subsequent conversations with the shareholders, minor adjustments have been incorporated into the two foundational documents (Attachment A & B). The most significant change to the structure of the Corporation during these discussions has been Vancouver Island University is now designated as a Class C Shareholder and not required to provide an annual financial contribution.

The key elements of the NPC Shareholder Agreement are as follows:

Purpose: The Corporation is the economic development corporation through which business, government, First Nation, and community partners collaborate to build Nanaimo's economy and increase the level of shared prosperity enjoyed by those who live here.

Mandate: The Corporation will maintain and update the Economic Development Strategy, develop and undertake initiatives to attract business and employers to the community, coordinate the sector-specific activities, and develop initiatives to retain and expand business.

Ownership: The Corporation is jointly owned by the City of Nanaimo (Class A shareholder) and five other governments and organizations (Class B & C shareholders), including (in alphabetical order):

- Nanaimo Airport Commission - Class B
- Nanaimo Chamber of Commerce - Class B
- Nanaimo Port Authority - Class B
- Snuneymuxw First Nation - Class B
- Vancouver Island University – Class C

Board of Directors: The Corporation is comprised of nine voting directors. This includes six directors, with representation from each shareholder. In addition there are three members at large appointed by the shareholders through a public call for applicants. In appointing directors, the Board will consider the skill set and backgrounds of the applicants and the economic sectors they represent. At least one director should be from the social services sector. The City of Nanaimo is represented on the board by a senior staff member and one elected official as a non-voting director.

Term: Each director is appointed for a term of two-years and may be reappointed by the shareholders for two (2) consecutive additional terms for a maximum period of six (6) years.

Funding: The City of Nanaimo is a Class A shareholder and will provide the bulk of the base funding. The Class B shareholders are committed to providing a \$10,000 cash or in-kind contribution in 2022 through to 2025 (subject to approval of their respective boards). Class C Shareholders are not obligated to provide funding to the NPC.

Remuneration: All board members serve without remuneration.

Voting: All shareholders (Class A, B & C) participate in and receive one vote on Board decisions. The City of Nanaimo as the only Class A Shareholder makes all decisions related to borrowing of money, change to the corporation's status or the inclusion of additional Class A Shareholders. Two-thirds of the NPC's Shareholders are required to create or transfer Class B or C shares, make any material change to or within the business of the company or the composition and authority of and method of appointment to the Board of directors.

Three-Year Review: At the end of the initial three years, the City will initiate and complete a review of the NPC to examine the Corporation's mandate, structure, funding and performance and to assess the level of community and shareholder support for the organization.

Operations: The NPC will hire its own Executive Director, lease its own office space in downtown Nanaimo and is responsible for its own operational needs, including those related to financial management and accounting, legal matters, human resources, purchasing, information technology and others.

Financial Considerations

Staff were advised through the development of the Economic Development Strategy that comparable communities to the City of Nanaimo allocate between \$750,000 and \$1,000,000 towards economic development.

The Economic Development Function Service Review recommended that economic development be delivered in Nanaimo through a hybrid approach with both an internal and external function.

The internal function has an annual budget of \$323,100 in the 2022-2026 Financial Plan. These funds are largely committed to staffing through an economic development manager and economic development officer.

The approved 2022-2026 Provisional Financial Plan has a budget of \$407,100 allocated towards the NPC in 2022 for the annual operation of the Corporation funded from general revenue.

Under the Shareholder Agreement, the shareholders will provide an additional \$40,000 per annum in cash or in-kind contributions to the corporation. \$236,650 will be carried over from the City's 2021 budget to support establishment of the Corporation increasing the 2022 budget to \$643,750 for the 2022 – 2026 Final Financial Plan.

NEXT STEPS

The City is required to appoint a Council member as a non-voting director for the remainder of the Council term (November 2022). In addition, a senior Staff member will be selected by the Chief Administrative Officer to attend the Board meetings as a voting director.

The next steps for the NPC are as follows

- Host an inaugural board meeting before the end of 2022-MAR-30;
- Recruit and hire an executive director;
- Secure shared office space with partners such as the Chamber of Commerce and Tourism Nanaimo;
- Prepare policies and procedures for the new Corporation;
- Advertise for three directors, including one from the social services;
- Prepare a 2022 work plan based on the Economic Development Strategy.

OPTIONS

1. That Council:
 1. approve the Articles of Incorporation and Shareholder Agreement for the Nanaimo Prosperity Corporation;
 2. appoint a Council member as a non-voting director to the Board of the Nanaimo Prosperity Corporation until November 2022; and
 3. direct Staff to work with the Nanaimo Prosperity Corporation shareholders to host the inaugural Board meeting no later than 2022-MAR-30.
 - The advantages of this option: Establishing the Corporation will meet one of Council's key Strategic Priorities. The Corporation requires the City to work in partnership with the City and Region's key shareholders to deliver economic benefits to the community. Creation of the Corporation will enable the City to enhance delivery of the economic development function and commence implementation of the Economic Development Strategy.
 - The disadvantages of this option: None identified.
 - Financial Implications: An annual budget of \$407,100 has been allocated to the NPC. In 2022, additional funding of \$643,750 has been carried over to account for start-up costs of the new corporation.
2. That Council provide alternative direction to Staff. |

SUMMARY POINTS

- Council has expressed a strong commitment to economic development. The *2019-2022 Strategic Plan* identifies Economic Health as one of the four pillars. Council established an Economic Development Task Force to develop an economic development strategy and to further define the economic development corporation.
- At the 2021-FEB-01 Council Meeting Council approved the Economic Development Strategy and directed staff to establish the Nanaimo Prosperity Corporation.

- The City and its shareholders have prepared Articles of Incorporation and a Shareholder Agreement for the Nanaimo Prosperity Corporation. The Inspector of Municipalities has approved the creation of the Corporation.
- The inaugural board meeting of the Nanaimo Prosperity Corporation will be held by 2022-MAR-30. The Board will advertise for three additional director positions.
- Council has allocated \$643,750 in 2022 to establish the Nanaimo Prosperity Corporation.
- Next steps include recruitment of an Executive Director, securing shared office space and preparing policies and procedures.

ATTACHMENTS:

ATTACHMENT A: Articles of Incorporation
ATTACHMENT B: Shareholder Agreement

Submitted by:

Bill Corsan
Director, Corporate and Business
Development

Concurrence by:

Laura Mercer
Director, Finance

ATTACHMENT A

Incorporation number: [number]

Nanaimo Prosperity Corporation

(the “Company”)

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1. Interpretation

1.1. Definitions

In these Articles, unless the context otherwise requires:

- 1) **“appropriate person”** has the meaning assigned in the *Securities Transfer Act*;
- 2) **“board of directors”, “directors”, and “board”** mean the directors or sole director of the Company for the time being;
- 3) **“Business Corporations Act”** means the *Business Corporations Act* (British Columbia) from time to time in force and all amendments thereto and includes all regulations and amendments thereto made pursuant to that Act;
- 4) **“Community Charter”** means the *Community Charter* (British Columbia) from time to time in force and all amendments thereto and includes all regulations and amendments thereto made pursuant to that Act;
- 5) **“Income Tax Act”** means the *Income Tax Act* (Canada) from time to time in force and all amendments thereto and includes all regulations and amendments thereto made pursuant to that Act;
- 6) **“Interpretation Act”** means the *Interpretation Act* (British Columbia) from time to time in force and all amendments thereto and includes all regulations and amendments thereto made pursuant to that Act;
- 7) **“legal personal representative”** means the personal or other legal representative of a shareholder;
- 8) **“Local Government Act”** means the *Local Government Act* (British Columbia) from time to time in force and all amendments thereto and includes all regulations and amendments thereto made pursuant to that Act;
- 9) **“non-voting director”** means a director serving on the board of directors that is not entitled to vote at a meeting of directors;
- 10) **“protected purchaser”** has the meaning assigned in the *Securities Transfer Act*;
- 11) **“registered address”** of a shareholder means the shareholder’s address as recorded in the central securities register;
- 12) **“securities legislation”** means statutes concerning the regulation of securities markets and trading in securities and the regulations, rules, forms and schedules under those statutes, all as amended from time to time, and the blanket rulings and orders, as amended from time to time, issued by the securities commissions or similar regulatory authorities appointed under or pursuant to those statutes; **“Canadian securities legislation”** means the securities legislation in any province or territory of Canada and includes the *Securities Act* (British Columbia); and **“U.S.**

securities legislation” means the securities legislation in the federal jurisdiction of the United States and in any state of the United States and includes the *Securities Act* of 1933 and the *Securities Exchange Act* of 1934;

- 13) **“shareholders”** means, collectively, all the shareholders of the Company, regardless of class of share;
- 14) **“special majority”** means a 2/3 of the votes cast on a resolution of the Company by those entitled to vote on such a resolution;
- 15) **“Statutory Reporting Company Provisions”** has the meaning assigned in the *Business Corporations Act*;
- 16) **“Securities Transfer Act”** means the *Securities Transfer Act* (British Columbia) from time to time in force and all amendments thereto and includes all regulations and amendments thereto made pursuant to that Act; and
- 17) **“voting director”** means a director that is entitled to vote at a meeting of directors.

1.2. Business Corporations Act and Interpretation Act Definitions Applicable

The definitions in the *Business Corporations Act* and the definitions and rules of construction in the *Interpretation Act*, with the necessary changes, so far as applicable, and unless the context requires otherwise, apply to these Articles as if they were an enactment. If there is a conflict between a definition in the *Business Corporations Act* and a definition or rule in the *Interpretation Act* relating to a term used in these Articles, the definition in the *Business Corporations Act* will prevail in relation to the use of the term in these Articles. If there is a conflict or inconsistency between these Articles and the *Business Corporations Act*, the *Business Corporations Act* will prevail.

2. Shares and Share Certificates

2.1. Authorized Share Structure

The authorized share structure of the Company consists of shares of the class or classes and series, if any, described in the Notice of Articles of the Company.

2.2. Form of Share Certificate

Each share certificate issued by the Company must comply with, and be signed as required by, the *Business Corporations Act*.

2.3. Shareholder Entitled to Certificate or Acknowledgment

Unless the shares of which the shareholder is the registered owner are uncertificated shares within the meaning of the *Business Corporations Act*, each shareholder is entitled, without charge, to (a) one share certificate representing the shares of each class or series of shares registered in the shareholder’s name or (b) a non-transferable written acknowledgment of the shareholder’s right to obtain such a share certificate, provided that in respect of a share held jointly by several persons, the Company is not bound to issue more than one share certificate or acknowledgment and delivery of a share certificate, or an

acknowledgment to one of several joint shareholders or to a duly authorized agent of one of the joint shareholders will be sufficient delivery to all.

2.4. Delivery by Mail

Any share certificate or non-transferable written acknowledgment of a shareholder's right to obtain a share certificate may be sent to the shareholder by mail at the shareholder's registered address and neither the Company nor any director, officer, or agent of the Company is liable for any loss to the shareholder because the share certificate or acknowledgment is lost in the mail or stolen.

2.5. Replacement of Worn Out or Defaced Certificate or Acknowledgement

If the directors are satisfied that a share certificate or a non-transferable written acknowledgment of the shareholder's right to obtain a share certificate is worn out or defaced, they must, on production to them of the share certificate or acknowledgment, as the case may be, and on such other terms, if any, as they think fit:

- 1) order the share certificate or acknowledgment, as the case may be, to be cancelled; and
- 2) issue a replacement share certificate or acknowledgment, as the case may be.

2.6. Replacement of Lost, Destroyed, or Wrongfully Taken Certificate

If a person entitled to a share certificate claims that the share certificate has been lost, destroyed, or wrongfully taken, the Company must issue a new share certificate, if that person:

- 1) so requests before the Company has notice that the share certificate has been acquired by a protected purchaser;
- 2) provides the Company with an indemnity bond sufficient in the Company's judgment to protect the Company from any loss that the Company may suffer by issuing a new certificate; and
- 3) satisfies any other reasonable requirements imposed by the directors.

A person entitled to a share certificate may not assert against the Company a claim for a new share certificate where a share certificate has been lost, apparently destroyed, or wrongfully taken if that person fails to notify the Company of that fact within a reasonable time after that person has notice of it and the Company registers a transfer of the shares represented by the certificate before receiving a notice of the loss, apparent destruction, or wrongful taking of the share certificate.

2.7. Recovery of New Share Certificate

If, after the issue of a new share certificate, a protected purchaser of the original share certificate presents the original share certificate for the registration of transfer, then in addition to any rights under the indemnity bond, the Company may recover the new share certificate from a person to whom it was issued or any person taking under that person other than a protected purchaser.

2.8. Recognition of Trusts

Except as required by law or statute or these Articles, no person will be recognized by the Company as holding any share upon any trust, and the Company is not bound by or compelled in any way to recognize (even when having notice thereof) any equitable, contingent, future, or partial interest in any share or fraction of a share or (except as required by law or statute or these Articles or as ordered by a court of competent jurisdiction) any other rights in respect of any share except an absolute right to the entirety thereof in the shareholder.

3. Issue of Shares

3.1. Authorization of Issuance

The Company may issue, allot, sell, or otherwise dispose of the unissued shares, and issued shares held by the Company, at the times, to the persons, including directors, in the manner, on the terms and conditions and for the issue prices authorized by the Shareholders via resolution.

4. Share Registers

4.1. Central Securities Register

As required by and subject to the *Business Corporations Act*, the Company must maintain a central securities register. The directors may, subject to the *Business Corporations Act*, appoint an agent to maintain the central securities register. The directors may also appoint one or more agents, including the agent which keeps the central securities register, as transfer agent for its shares or any class or series of its shares, as the case may be, and the same or another agent as registrar for its shares or such class or series of its shares, as the case may be. The directors may terminate such appointment of any agent at any time and may appoint another agent in its place.

4.2. Closing Register

The Company must not at any time close its central securities register.

5. Share Transfers

5.1. Registering Transfers

The Company must register a transfer of a share of the Company if the Company or the transfer agent or registrar for the class or series of share to be transferred has received:

- (a) in the case where the Company has issued a share certificate in respect of the share to be transferred, that share certificate and a written instrument of transfer (which may be on a separate document or endorsed on the share certificate) made by the shareholder or other appropriate person or by an agent who has actual authority to act on behalf of that person;
- (b) in the case of a share that is not represented by a share certificate (including an uncertificated share within the meaning of the *Business Corporations Act* and including the case where the Company has issued a non-transferable written acknowledgment of

the shareholder's right to obtain a share certificate in respect of the share to be transferred), a written instrument of transfer made by the shareholder or other appropriate person or by an agent who has actual authority to act on behalf of that person; and

- (c) such other evidence, if any, as the Company or the transfer agent or registrar for the class or series of share to be transferred may require to prove the title of the transferor or the transferor's right to transfer the share, that the written instrument of transfer is genuine and authorized and that the transfer is rightful or to a protected purchaser.

5.1A. Waivers of Requirements for Transfer

The Company may waive any of the requirements set out in Article 5.1.

5.2. Form of Instrument of Transfer

The instrument of transfer in respect of any share of the Company must be either in the form, if any, on the back of the Company's share certificates or in any other form that may be approved by the company or the transfer agent for the class or series of shares to be transferred.

5.3. Transferor Remains Shareholder

Except to the extent that the *Business Corporations Act* otherwise provides, the transferor of shares is deemed to remain the holder of the shares until the name of the transferee is entered in a securities register of the Company in respect of the transfer.

6. Restrictions on Share Transfer and Shareholders

No shares shall be issued or transferred except via shareholders' resolution.

7. Acquisition of Company's Shares

7.1. Company Authorized to Purchase or Otherwise Acquire Shares

Subject to Article 7.2, the special rights or restrictions attached to the shares of any class or series of shares and the *Business Corporations Act*, the Company may, if authorized by the shareholders, purchase or otherwise acquire any of its shares at the price and upon the terms determined by the shareholders.

7.2. No Purchase, Redemption, or Other Acquisition When Insolvent

The Company must not make a payment or provide any other consideration to purchase, redeem, or otherwise acquire any of its shares if there are reasonable grounds for believing that:

- 1) the Company is insolvent; or
- 2) making the payment or providing the consideration would render the Company insolvent.

8. Borrowing Powers

The Company, if authorized by a shareholder's resolution, may:

- 1) borrow money in the manner and amount, on the security provided by the Class A Shareholder, from the sources and on the terms and conditions outlined in the relevant Class A shareholder's resolution;
- 2) issue bonds, debentures, and other debt obligations either outright or as security for any liability or obligation of the Company or any other person and at such discounts or premiums and on such other terms outlined in the relevant Class A shareholder's resolution;
- 3) guarantee the repayment of money by any other person or the performance of any obligation of any other person; and
- 4) mortgage, charge, whether by way of specific or floating charge, grant a security interest in, or give other security on, the whole or any part of the present and future assets and undertaking of the Company.

9. Alterations

9.1. Alteration of Authorized Share Structure

Subject to Article 9.2 and the *Business Corporations Act*, the Company may by special resolution of the shareholders:

- 1) create one or more classes or series of shares or, if none of the shares of a class or series of shares are allotted or issued, eliminate that class or series of shares;
- 2) increase, reduce, or eliminate the maximum number of shares that the Company is authorized to issue out of any class or series of shares or establish a maximum number of shares that the Company is authorized to issue out of any class or series of shares for which no maximum is established;
- 3) alter the identifying name of any of its shares; or
- 4) otherwise alter its shares or authorized share structure when required or permitted to do so by the *Business Corporations Act*,

and, if applicable, alter its Notice of Articles and, if applicable, its Articles, accordingly.

9.2. Special Rights or Restrictions

Subject to the *Business Corporations Act*, the Company may by special resolution of the shareholders:

- (1) create special rights or restrictions for, and attach those special rights or restrictions to, the shares of any class or series of shares, whether or not any or all of those shares have been issued; or
- (2) vary or delete any special rights or restrictions attached to the shares of any class or series of shares, whether or not any or all of those shares have been issued,

and alter its Articles and Notice of Articles accordingly.

9.3. Change of Name

The Company may by special resolution of the shareholders authorize an alteration to its Notice of Articles in order to change its name and may, by special resolution, adopt or change any translation of that name.

9.4. Other Alterations

If the *Business Corporations Act* does not specify the type of resolution and these Articles do not specify another type of resolution, the Company may by special resolution of the shareholders alter these Articles.

9.5. Consent to Alterations

Notwithstanding the other provisions of these Articles, the Company will not alter or amend the restriction in Articles 8, 9.4, 9.5, 9.6, 11.1, 13.1, 16.2, 18.1, 26.1, 26.5, 26.6, 27.1, and 27.2 in any way without the prior written consent of the Inspector of Municipalities.

9.6. Consent for Subsidiaries

The company will not create, organize or facilitate the incorporation of a subsidiary corporation of the Company without the prior written consent of the Inspector of Municipalities.

10. Meetings of Shareholders

10.1. Annual General Meetings

Unless an annual general meeting is deferred or waived in accordance with the *Business Corporations Act*, the Company must hold its first annual general meeting within 18 months after the date on which it was incorporated or otherwise recognized, and after that must hold an annual general meeting at least once in each calendar year and not more than 15 months after the last annual reference date at such time and place as may be determined by the directors.

10.2. Resolution Instead of Annual General Meeting

If all the shareholders who are entitled to vote at an annual general meeting consent by a unanimous resolution to all of the business that is required to be transacted at that annual general meeting, the annual general meeting is deemed to have been held on the date of the unanimous resolution. The shareholders must, in any unanimous resolution passed under this Article 10.2, select as the Company's annual reference date a date that would be appropriate for the holding of the applicable annual general meeting.

10.3. Calling of Meetings of Shareholders

The directors may, at any time, call a meeting of shareholders to be held at such time and place as may be determined by the directors.

10.4. Notice for Meetings of Shareholders

The Company must send notice of the date, time, and location of any meeting of shareholders (including, without limitation, any notice specifying the intention to propose a resolution as an exceptional

resolution, a special resolution or a special separate resolution and any notice to consider approving an amalgamation into a foreign jurisdiction, an arrangement or the adoption of an amalgamation agreement, and any notice of a general meeting, class meeting, or series meeting), in the manner provided in these Articles, or in such other manner, if any, as may be prescribed by special resolution (whether previous notice of the resolution has been given or not), to each shareholder entitled to attend the meeting, to each director, and to the auditor of the Company, unless these Articles otherwise provide, at least 10 days before the meeting.

10.5. Notice of Resolution to Which Shareholders May Dissent

The Company must send to each of its shareholders, whether or not their shares carry the right to vote, a notice of any meeting of shareholders at which a resolution entitling shareholders to dissent is to be considered specifying the date of the meeting and containing a statement advising of the right to send a notice of dissent together with a copy of the proposed resolution at least 10 days before the meeting.

10.6. Record Date for Notice

The directors may set a date as the record date for the purpose of determining shareholders entitled to notice of any meeting of shareholders. The record date must not precede the date on which the meeting is to be held by more than two months or, in the case of a general meeting requisitioned by shareholders under the *Business Corporations Act*, by more than four months. The record date must not precede the date on which the meeting is held by fewer than 10 days.

If no record date is set, the record date is 5:00 p.m. on the day immediately preceding the first date on which the notice is sent or, if no notice is sent, the beginning of the meeting.

10.7. Record Date for Voting

The directors may set a date as the record date for the purpose of determining shareholders entitled to vote at any meeting of shareholders. The record date must not precede the date on which the meeting is to be held by more than two months or, in the case of a general meeting requisitioned by shareholders under the *Business Corporations Act*, by more than four months. If no record date is set, the record date is 5:00 p.m. on the day immediately preceding the first date on which the notice is sent or, if no notice is sent, the beginning of the meeting.

10.8. Failure to Give Notice and Waiver of Notice

The accidental omission to send notice of any meeting of shareholders to, or the non-receipt of any notice by, any of the persons entitled to notice does not invalidate any proceedings at that meeting. Any person entitled to notice of a meeting of shareholders may, in writing or otherwise, waive that entitlement or agree to reduce the period of that notice. Attendance of a person at a meeting of shareholders is a waiver of entitlement to notice of the meeting unless that person attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

10.9. Notice of Special Business at Meetings of Shareholders

If a meeting of shareholders is to consider special business within the meaning of Article 11.1, the notice of meeting must:

- (1) state the general nature of the special business; and

- (2) if the special business includes considering, approving, ratifying, adopting, or authorizing any document or the signing of or giving of effect to any document, have attached to it a copy of the document or state that a copy of the document will be available for inspection by shareholders:
 - (a) at the Company's records office, or at such other reasonably accessible location in British Columbia as is specified in the notice; and
 - (b) during statutory business hours on any one or more specified days before the day set for the holding of the meeting.

11. Proceedings at Meetings of Shareholders

11.1. Special Business

At a meeting of shareholders, the following business is special business:

- (1) at a meeting of shareholders that is not an annual general meeting, all business is special business except business relating to the conduct of or voting at the meeting;
- (2) at an annual general meeting, all business is special business except for the following:
 - (a) business relating to the conduct of or voting at the meeting;
 - (b) consideration of any financial statements of the Company presented to the meeting;
 - (c) consideration of any reports of the directors or auditor;
 - (d) the setting or changing of the number of directors;
 - (e) the election or appointment of directors;
 - (f) the appointment of an auditor;
 - (g) the setting of the remuneration of an auditor;
 - (h) business arising out of a report of the directors not requiring the passing of a special resolution or an exceptional resolution; and
 - (i) any other business which, under these Articles or the *Business Corporations Act*, may be transacted at a meeting of shareholders without prior notice of the business being given to the shareholders.

11.2. Special Majority

The majority of votes required for the Company to pass a special resolution at a general meeting of shareholders is two-thirds of the votes cast on the resolution.

11.3. Quorum

Subject to the special rights or restrictions attached to the shares of any class or series of shares, the quorum for the transaction of business at a meeting of shareholders is five shareholders.

11.4. Persons Entitled to Attend Meeting

In addition to those persons who are entitled to vote at a meeting of shareholders, the only other persons entitled to be present at the meeting are the directors, the president (if any), the secretary (if any), the assistant secretary (if any), any lawyer for the Company, the auditor of the Company, any persons invited to be present at the meeting by the directors or by the chair of the meeting, and any persons entitled or required under the *Business Corporations Act* or these Articles to be present at the meeting; but if any of those persons does attend the meeting, that person is not to be counted in the quorum and is not entitled to vote at the meeting unless that person is a shareholder or proxy holder entitled to vote at the meeting.

11.5. Requirement of Quorum

No business, other than the election of a chair of the meeting and the adjournment of the meeting, may be transacted at any meeting of shareholders unless a quorum of shareholders entitled to vote is present at the commencement of the meeting, but such quorum need not be present throughout the meeting.

11.6. Lack of Quorum

If, within one-half hour from the time set for the holding of a meeting of shareholders, a quorum is not present:

- (1) in the case of a general meeting requisitioned by shareholders, the meeting is dissolved; and
- (2) in the case of any other meeting of shareholders, the meeting stands adjourned to the same day in the next week at the same time and place.

11.7. Lack of Quorum at Succeeding Meeting

If, at the meeting to which the meeting referred to in Article 11.6(2) was adjourned, a quorum is not present within one-half hour from the time set for the holding of the meeting, the person or persons present and being, or representing by proxy, one or more shareholders entitled to attend and vote at the meeting, constitute a quorum.

11.8. Chair

The following individual is entitled to preside as chair at a meeting of shareholders:

- 1) the chair of the board; or
- 2) if the chair of the board is absent or unwilling to act as chair of the meeting, the vice chair of the board.

11.9. Selection of Alternate Chair

If, at any meeting of shareholders, there is no chair of the board or vice chair of the board present within 15 minutes after the time set for holding the meeting, or if the chair of the board and the vice chair of the board are unwilling to act as chair of the meeting, or if the chair of the board and vice chair of the board

have advised the secretary, if any, or any director present at the meeting, that they will not be present at the meeting, the directors present must choose one of their number to be chair of the meeting or if all of the directors present decline to take the chair or fail to so choose or if no director is present, the shareholders entitled to vote at the meeting who are present in person or by proxy may choose any person present at the meeting to chair the meeting.

11.10. Adjournments

The chair of a meeting of shareholders may, and if so directed by the meeting must, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

11.11. Notice of Adjourned Meeting

It is not necessary to give any notice of an adjourned meeting of shareholders or of the business to be transacted at an adjourned meeting of shareholders except that, when a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of the original meeting.

11.12. Decisions by Show of Hands or Poll

Subject to the *Business Corporations Act*, every motion put to a vote at a meeting of shareholders will be decided on a show of hands unless a poll, before or on the declaration of the result of the vote by show of hands, is directed by the chair or demanded by any shareholder entitled to vote who is present in person or by proxy.

11.13. Declaration of Result

The chair of a meeting of shareholders must declare to the meeting the decision on every question in accordance with the result of the show of hands or the poll, as the case may be, and that decision must be entered in the minutes of the meeting. A declaration of the chair that a resolution is carried by the necessary majority or is defeated is, unless a poll is directed by the chair or demanded under Article 11.12, conclusive evidence without proof of the number or proportion of the votes recorded in favour of or against the resolution.

11.14. Motion Need Not be Seconded

No motion proposed at a meeting of shareholders need be seconded unless the chair of the meeting rules otherwise, and the chair of any meeting of shareholders is entitled to propose or second a motion.

11.15. Casting Vote

In the case of an equality of votes, the chair of a meeting of shareholders does not, either on a show of hands or on a poll, have a second or casting vote in addition to the vote or votes to which the chair may be entitled as a shareholder.

11.16. Manner of Taking Poll

Subject to Article 11.17, if a poll is duly demanded at a meeting of shareholders:

- 1) the poll must be taken:

- i) at the meeting, or within seven days after the date of the meeting, as the chair of the meeting directs; and
 - ii) in the manner, at the time and at the place that the chair of the meeting directs;
- 2) the result of the poll is deemed to be the decision of the meeting at which the poll is demanded; and
- 3) the demand for the poll may be withdrawn by the person who demanded it.

11.17. Demand for Poll on Adjournment

A poll demanded at a meeting of shareholders on a question of adjournment must be taken immediately at the meeting.

11.18. Chair Must Resolve Dispute

In the case of any dispute as to the admission or rejection of a vote given on a poll, the chair of the meeting must determine the dispute, and their determination made in good faith is final and conclusive.

11.19. Casting of Votes

On a poll, a shareholder entitled to more than one vote need not cast all the votes in the same way.

11.20. No Demand for Poll on Election of Chair

No poll may be demanded in respect of the vote by which a chair of a meeting of shareholders is elected.

11.21. Demand for Poll Not to Prevent Continuance of Meeting

The demand for a poll at a meeting of shareholders does not, unless the chair of the meeting so rules, prevent the continuation of the meeting for the transaction of any business other than the question on which a poll has been demanded.

11.22. Retention of Ballots and Proxies

The Company must, for at least three months after a meeting of shareholders, keep each ballot cast on a poll and each proxy voted at the meeting, and, during that period, make them available for inspection during normal business hours by any shareholder or proxyholder entitled to vote at the meeting. At the end of such three month period, the Company may destroy such ballots and proxies.

12. Votes of Shareholders

12.1. Number of Votes by Shareholder or by Shares

Subject to any special rights or restrictions attached to any shares:

- 1) on a vote by show of hands, every person present who is a shareholder or proxy holder and entitled to vote on the matter has one vote; and

on a poll, every shareholder entitled to vote on the matter has one vote in respect of each share entitled to be voted on the matter and held by that shareholder and may exercise that vote either in person or by proxy.

12.2. Votes of Persons in Representative Capacity

A person who is not a shareholder may vote at a meeting of shareholders, whether on a show of hands or on a poll, and may appoint a proxy holder to act at the meeting, if, before doing so, the person satisfies the chair of the meeting, or the directors, that the person is a legal personal representative or a trustee in bankruptcy for a shareholder who is entitled to vote at the meeting.

12.3. Representative of a Corporate Shareholder

- 1) If a corporation that is not a subsidiary of the Company is a shareholder, that corporation may appoint a person to act as its representative at any meeting of shareholders of the Company.
- 2) if a representative is appointed under this Article 12.3:
 - (a) the representative is entitled to exercise in respect of and at that meeting the same rights on behalf of the corporation that the representative represents as that corporation could exercise if it were a shareholder who is an individual, including, without limitation, the right to appoint a proxy holder; and
 - (b) the representative, if present at the meeting, is to be counted for the purpose of forming a quorum and is deemed to be a shareholder present in person at the meeting.

12.4. Appointment of Proxy Holders

Every shareholder of the Company, including a corporation that is a shareholder but not a subsidiary of the Company, entitled to vote at a meeting of shareholders may, by proxy, appoint one or more proxy holders to attend and act at the meeting in the manner, to the extent and with the powers conferred by the proxy.

12.5. Alternate Proxy Holders

A shareholder may appoint one or more alternate proxy holders to act in the place of an absent proxy holder.

12.6. Deposit of Proxy

A proxy for a meeting of shareholders must be received at the meeting or any adjourned meeting, by the chair of the meeting or adjourned meeting or by a person designated by the chair of the meeting or adjourned meeting.

12.7. Form of Proxy

A proxy, whether for a specified meeting or otherwise, must be either in the following form or in any other form approved by the directors or the chair of the meeting:

[name of company]
(the “Company”)

The undersigned, being a shareholder of the Company, hereby appoints *[name]* or, failing that person, *[name]*, as proxy holder for the undersigned to attend, act, and vote for and on behalf of the undersigned at the meeting of shareholders of the Company to be held on *[month, day, year]* and at any adjournment of that meeting.

Number of shares in respect of which this proxy is given (if no number is specified, then this proxy is given in respect of all shares registered in the name of the undersigned):

Signed *[month, day, year]*

[Signature of shareholder]

[Name of shareholder—printed]

12.8. Chair May Determine Validity of Proxy

The chair of any meeting of shareholders may determine whether or not a proxy deposited for use at the meeting, which may not strictly comply with the requirements of this Part 12 as to form, execution, accompanying documentation, time of filing, or otherwise, will be valid for use at the meeting, and any such determination made in good faith will be final, conclusive, and binding upon the meeting.

12.9. Production of Evidence of Authority to Vote

The chair of any meeting of shareholders may, but need not, inquire into the authority of any person to vote at the meeting and may, but need not, demand from that person production of evidence as to the existence of the authority to vote.

13. Directors

13.1. First Directors; Number of Directors

The first directors are the persons designated as directors of the Company in the Notice of Articles that applies to the Company when it is recognized under the *Business Corporations Act*. The board of directors is comprised of nine (9) voting Directors, in accordance with the following rules on composition:

- (a) the City of Nanaimo designates one (1) senior staff member to serve as a voting Director
- (b) each of the other shareholders designates one (1) individual to serve as a voting Director
- (c) the shareholders together select and appoint the remaining three (3) voting Directors, including one from the Social Services sector, from persons who apply to the Board through a public call for applicants

13.2. Change in Number of Directors

If there is a vacancy on the board of directors, the shareholder or shareholders responsible for filling such vacancy will be the shareholder or shareholders that originally appointed or elected the director that ceased to hold office and created the vacancy being filled.

13.3. Directors' Acts Valid Despite Vacancy

An act or proceeding of the directors is not invalid merely because fewer than the number of directors set or otherwise required under these Articles is in office.

13.4. Qualifications of Directors

A director is not required to hold a share of the Company as qualification for their office but must be qualified as required by the *Business Corporations Act* to become, act, or continue to act as a director.

13.5. Remuneration of Directors

The directors are not entitled to the remuneration for acting as a director and no director shall directly or indirectly receive any profit from a position as a director of the Company.

13.6. Reimbursement of Expenses of Directors

The Company must reimburse each director for the reasonable expenses that they may incur in and about the business of the Company.

13.7. Special Remuneration for Directors

If any director performs any professional or other services for the Company that in the opinion of the directors are outside the ordinary duties of a director, or if any director is otherwise specially occupied in or about the Company's business, they may be paid remuneration fixed by the directors, or, at the option of that director, fixed by special resolution, and such remuneration may be either in addition to, or in substitution for, any other remuneration that they may be entitled to receive.

14. Election and Removal of Directors

14.1. Appointment and Election of Directors

The shareholders will elect or appoint directors at the intervals and for the term determined by the shareholders. Notwithstanding the foregoing, if at an annual general meeting there exists a vacancy among the directors, the shareholders entitled to vote at the annual general meeting for the election of directors must elect a director or directors to fill such vacancy.

14.2. Consent to be a Director

No election, appointment, or designation of an individual as a director is valid unless:

- 1) that individual consents to be a director in the manner provided for in the *Business Corporations Act*;
- 2) that individual is elected or appointed at a meeting at which the individual is present and the individual does not refuse, at the meeting, to be a director; or

- 3) with respect to first directors, the designation is otherwise valid under the *Business Corporations Act*.

14.3. Failure to Elect or Appoint Directors

If:

- 1) the Company fails to hold an annual general meeting, and all the shareholders who are entitled to vote at an annual general meeting fail to pass the unanimous resolution contemplated by Article 10.2, on or before the date by which the annual general meeting is required to be held under the *Business Corporations Act*; or
- 2) the shareholders fail, at the annual general meeting or in the unanimous resolution contemplated by Article 10.2, to elect or appoint any directors,

then each director then in office continues to hold office until the earlier of:

- 3) when their respective successor is elected or appointed; and
- 4) when they otherwise cease to hold office under the *Business Corporations Act* or these Articles.

14.4. Places of Retiring Directors Not Filled

If, at any meeting of shareholders at which there should be an election of directors, the places of any of the retiring directors are not filled by that election, those retiring directors who are not re-elected and who are asked by the newly elected directors to continue in office will, if willing to do so, continue in office to complete the number of directors for the time being set pursuant to these Articles until further new directors are elected at a meeting of shareholders convened for that purpose. If any such election or continuance of directors does not result in the election or continuance of the number of directors for the time being set pursuant to these Articles, the number of directors of the Company is deemed to be set at the number of directors actually elected or continued in office.

14.5. Casual Vacancies

If there is a vacancy on the board of directors, the shareholders may, via resolution, elect or appoint directors to fill such vacancy.

14.6. Remaining Directors' Power to Act

The directors may act notwithstanding any vacancy in the board of directors, but if the Company has fewer directors in office than the number set pursuant to these Articles as the quorum of directors, the directors may only act for the purpose of appointing directors up to that number or of calling a meeting of shareholders for the purpose of filling any vacancies on the board of directors or, subject to the *Business Corporations Act*, for any other purpose.

14.7. Shareholders May Fill Vacancies

If the Company has no directors or fewer directors in office than the number set pursuant to these Articles as the quorum of directors, the shareholders may, via resolution, elect or appoint directors to fill any vacancies on the board of directors.

14.8. Additional Directors

The directors may not appoint additional directors.

14.9. Ceasing to be a Director

A director ceases to be a director when:

- 1) the term of office of the director expires;
- 2) the director dies;
- 3) the director resigns as a director by notice in writing provided to the Company or a lawyer for the Company; or
- 4) the director is removed from office pursuant to Articles 14.10 or 14.11.

14.10. Removal of Director by Shareholders

The Company may remove any director before the expiration of their term of office by special resolution. In that event, the shareholders may elect, or appoint by special resolution, a director to fill the resulting vacancy. If the shareholders do not elect or appoint a director to fill the resulting vacancy contemporaneously with the removal, then the directors may appoint or the shareholders may elect, or appoint by special resolution, a director to fill that vacancy.

14.11. Removal of Director by Directors

The directors may remove any director before the expiration of such director's term of office if the director is convicted of an indictable offence, or if the director ceases to be qualified to act as a director of a company and does not promptly resign, and the resulting vacancy will be treated as a casual vacancy and filled accordingly.

14.12. Term of Directors Appointed to Fill Vacancy

If the shareholders appoint a director to fill a vacancy on the board, the term of such replacement director will be the same as the term of the director that created such vacancy being filled.

15. Alternate Directors

15.1. Appointment of Alternate Director

Any director (an "appointor") may by notice in writing received by the Company appoint any person (an "appointee") who is qualified to act as a director to be their alternate to act in their place at meetings of the directors or committees of the directors at which the appointor is not present unless (in the case of an appointee who is not a director) the directors have reasonably disapproved the appointment of such

person as an alternate director and have given notice to that effect to their appointor within a reasonable time after the notice of appointment is received by the Company.

15.2. Notice of Meetings

Every alternate director so appointed is entitled to notice of meetings of the directors and of committees of the directors of which the alternate director's appointor is a member and to attend and vote as a director at any such meetings at which their appointor is not present.

15.3. Alternate for More Than One Director Attending Meetings

A person may be appointed as an alternate director by more than one director, and an alternate director:

- 1) will be counted in determining the quorum for a meeting of directors once for each of the appointee's appointors and, in the case of an appointee who is also a director, once more in that capacity;
- 2) has a separate vote at a meeting of directors for each of the appointee's appointors and, in the case of an appointee who is also a director, an additional vote in that capacity;
- 3) will be counted in determining the quorum for a meeting of a committee of directors once for each of the appointee's appointors who is a member of that committee and, in the case of an appointee who is also a member of that committee as a director, once more in that capacity; and
- 4) has a separate vote at a meeting of a committee of directors for each of the appointee's appointors who is a member of that committee and, in the case of an appointee who is also a member of that committee as a director, an additional vote in that capacity.

15.4. Consent Resolutions

Every alternate director, if authorized by the notice appointing them, may sign in place of their appointor any resolutions to be consented to in writing.

15.5. Alternate Director Not an Agent

Every alternate director is deemed not to be the agent of their appointor.

15.6. Revocation of Appointment of Alternate Director

An appointor may at any time, by notice in writing received by the Company, revoke the appointment of an alternate director appointed by them.

15.7. Ceasing to be an Alternate Director

The appointment of an alternate director ceases when:

- 1) their appointor ceases to be a director and is not promptly re-elected or re-appointed;
- 2) the alternate director dies;

- 3) the alternate director resigns as an alternate director by notice in writing provided to the Company or a lawyer for the Company;
- 4) the alternate director ceases to be qualified to act as a director; or
- 5) their appointor revokes the appointment of the alternate director.

15.8. Remuneration and Expenses of Alternate Director

The Company may reimburse an alternate director for the reasonable expenses that would be properly reimbursed if they were a director, and the alternate director is entitled to receive from the Company such proportion, if any, of the remuneration otherwise payable to the appointor as the appointor may from time to time direct.

16. Powers and Duties of Directors

16.1. Powers of Management

The directors must, subject to the *Business Corporations Act* and these Articles, manage or supervise the management of the business and affairs of the Company and have the authority to exercise all such powers of the Company as are not, by the *Business Corporations Act* or by these Articles, required to be exercised by the shareholders of the Company.

16.2. Fiscal Year End and Audited Financial Statements

The Directors shall set December 31 in each year as the Fiscal Year End of the Company and the Directors shall make Audited Financial Statements available to the Shareholders of the Company within 90 days of the Company's Fiscal Year End in each year.

16.3. Appointment of Attorney of Company

The directors may from time to time, by power of attorney or other instrument, under seal if so required by law, appoint any person to be the attorney of the Company for such purposes, and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the directors under these Articles and excepting the power to fill vacancies in the board of directors, to remove a director, to change the membership of, or fill vacancies in, any committee of the directors, to appoint or remove officers appointed by the directors, and to declare dividends) and for such period, and with such remuneration and subject to such conditions as the directors may think fit. Any such power of attorney may contain such provisions for the protection or convenience of persons dealing with such attorney as the directors think fit. Any such attorney may be authorized by the directors to sub-delegate all or any of the powers, authorities, and discretions for the time being vested in such attorney.

17. Interests of Directors and Officers

17.1. Obligation to Account for Profits

A director or senior officer who holds a disclosable interest (as that term is used in the *Business Corporations Act*) in a contract or transaction into which the Company has entered or proposes to enter is liable to account to the Company for any profit that accrues to the director or senior officer under or as a result of the contract or transaction only if and to the extent provided in the *Business Corporations Act*.

17.2. Restrictions on Voting by Reason of Interest

A director who holds a disclosable interest in a contract or transaction into which the Company has entered or proposes to enter is not entitled to vote on any directors' resolution to approve that contract or transaction, unless all the directors have a disclosable interest in that contract or transaction, in which case any or all of those directors may vote on such resolution.

17.3. Interested Director Counted in Quorum

A director who holds a disclosable interest in a contract or transaction into which the Company has entered or proposes to enter and who is present at the meeting of directors at which the contract or transaction is considered for approval may be counted in the quorum at the meeting whether or not the director votes on any or all of the resolutions considered at the meeting.

17.4. Disclosure of Conflict of Interest or Property

A director or senior officer who holds any office or possesses any property, right, or interest that could result, directly or indirectly, in the creation of a duty or interest that materially conflicts with that individual's duty or interest as a director or senior officer, must disclose the nature and extent of the conflict as required by the *Business Corporations Act*.

17.5. Director Holding Other Office in the Company

A director may hold any office or place of profit with the Company, other than the office of auditor of the Company, in addition to their office of director for the period and on the terms (as to remuneration or otherwise) that the directors may determine.

17.6. No Disqualification

No director or intended director is disqualified by their office from contracting with the Company either with regard to the holding of any office or place of profit the director holds with the Company or as vendor, purchaser, or otherwise, and no contract or transaction entered into by or on behalf of the Company in which a director is in any way interested is liable to be voided for that reason.

17.7. Professional Services by Director or Officer

Subject to the *Business Corporations Act*, a director or officer, or any person in which a director or officer has an interest, may act in a professional capacity for the Company, except as auditor of the Company, and the director or officer or such person is entitled to remuneration for professional services as if that director or officer were not a director or officer.

17.8. Director or Officer in Other Corporations

A director or officer may be or become a director, officer, or employee of, or otherwise interested in, any person in which the Company may be interested as a shareholder or otherwise, and, subject to the *Business Corporations Act*, the director or officer is not accountable to the Company for any remuneration or other benefits received by them as director, officer, or employee of, or from their interest in, such other person.

18. Proceedings of Directors

18.1. Meetings of Directors

The directors may meet together for the conduct of business, and adjourn and otherwise regulate their meetings as they think fit, and meetings of the directors held at regular intervals may be held at the place, at the time, and on the notice, if any, as the directors may from time to time determine.

18.2. Voting at Meetings

Questions arising at any meeting of directors are to be decided by a majority of votes and, in the case of an equality of votes, the chair of the meeting does not have a second or casting vote.

18.2A Election and Duties of Chair

- 1) At the first meeting of the board in a calendar year, the directors will elect a chair and vice-chair of the board, with the vice-chair acting in place of the chair when the chair is unavailable.
- 2) Duties of the chair will include:
 - i) presiding at meetings of the board;
 - ii) providing general direction to the chief executive officer of the Company;
 - iii) acting as the board's liaison with the Company's shareholder's, media, and other external entities;
 - iv) executing any instrument, document, or agreement in the name of and on behalf of the Company; and
 - v) carrying out all other duties and functions assigned by the directors.

18.3. Chair of Meetings

The following individual is entitled to preside as chair at a meeting of directors:

- 1) the chair of the board;
- 2) the vice-chair of the board;
- 3) in the absence of the chair or vice-chair of the board, the president, if any, if the president is a director; or
- 4) any other director chosen by the directors if:
 - i) neither the chair of the board nor the president, if a director, is present at the meeting within 15 minutes after the time set for holding the meeting;
 - ii) neither the chair of the board nor the president, if a director, is willing to chair the meeting; or

- iii) the chair of the board and the president, if a director, have advised the secretary, if any, or any other director, that they will not be present at the meeting.

18.4. Meetings by Telephone or Other Communications Medium

A director may participate in a meeting of the directors or of any committee of the directors:

- 1) in person;
- 2) by telephone; or
- 3) with the consent of all directors who wish to participate in the meeting, by other communications medium,

if all directors participating in the meeting, whether in person or by telephone or other communications medium, are able to communicate with each other. A director who participates in a meeting in a manner contemplated by this Article 18.4 is deemed for all purposes of the *Business Corporations Act* and these Articles to be present at the meeting and to have agreed to participate in that manner.

18.5. Calling of Meetings

A director may, and the secretary or an assistant secretary of the Company, if any, on the request of a director must, call a meeting of the directors at any time.

18.6. Notice of Meetings

Other than for meetings held at regular intervals as determined by the directors pursuant to Article 18.1 or as provided in Article 18.7, reasonable notice of each meeting of the directors, specifying the place, day, and time of that meeting, must be given to each of the directors and the alternate directors by any method set out in Article 23.1 or orally or by telephone.

18.7. When Notice Not Required

It is not necessary to give notice of a meeting of the directors to a director or an alternate director if:

- 1) the meeting is to be held immediately following a meeting of shareholders at which that director was elected or appointed, or is the meeting of the directors at which that director is appointed; or
- 2) the director or alternate director, as the case may be, has waived notice of the meeting.

18.8. Meeting Valid Despite Failure to Give Notice

The accidental omission to give notice of any meeting of directors to, or the non-receipt of any notice by, any director or alternate director, does not invalidate any proceedings at that meeting.

18.9. Waiver of Notice of Meetings

Any director or alternate director may send to the Company a document signed by them waiving notice of any past, present, or future meeting or meetings of the directors and may at any time withdraw that

waiver with respect to meetings held after that withdrawal. After sending a waiver with respect to all future meetings and until that waiver is withdrawn, no notice of any meeting of the directors need be given to that director or, unless the director otherwise requires by notice in writing to the Company, to their alternate director, and all meetings of the directors so held are deemed not to be improperly called or constituted by reason of notice not having been given to such director or alternate director. Attendance of a director or alternate director at a meeting of the directors is a waiver of notice of the meeting unless that director or alternate director attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

18.10. Quorum

The quorum necessary for the transaction of the business of the directors is five voting directors.

18.11. Validity of Acts Where Appointment Defective

Subject to the *Business Corporations Act*, an act of a director or officer is not invalid merely because of an irregularity in the election or appointment or a defect in the qualification of that director or officer.

18.12. Consent Resolutions in Writing

A resolution of the directors or of any committee of the directors may be passed without a meeting:

- 1) in all cases, if each of the directors entitled to vote on the resolution consents to it in writing; or
- 2) in the case of a resolution to approve a contract or transaction in respect of which a director has disclosed that they have or may have a disclosable interest, if each of the other directors who have not made such a disclosure consents in writing to the resolution.

A consent in writing under this Article 18.12 may be by any written instrument, fax, email, or any other method of transmitting legibly recorded messages in which the consent of the director is evidenced, whether or not the signature of the director is included in the record. A consent in writing may be in two or more counterparts which together are deemed to constitute one consent in writing. A resolution of the directors or of any committee of the directors passed in accordance with this Article 18.12 is effective on the date stated in the consent in writing or on the latest date stated on any counterpart and is deemed to be a proceeding at a meeting of the directors or of the committee of the directors and to be as valid and effective as if it had been passed at a meeting of the directors or of the committee of the directors that satisfies all the requirements of the *Business Corporations Act* and all the requirements of these Articles relating to meetings of the directors or of a committee of the directors.

19. Executive and Other Committees

19.1. Appointment and Powers of Executive Committee

The directors may, by resolution, appoint an executive committee consisting of the director or directors that they consider appropriate, and during the intervals between meetings of the board of directors all of the directors' powers are delegated to the executive committee, except:

- 1) the power to fill vacancies in the board of directors;
- 2) the power to remove a director;

- 3) the power to change the membership of, or fill vacancies in, any committee of the directors; and such other powers, if any, as may be set out in the resolution or any subsequent directors' resolution.

19.2. Appointment and Powers of Other Committees

The directors may, by resolution:

- 1) appoint one or more committees (other than the executive committee) consisting of the director or directors that they consider appropriate, as well as a chair and vice-chair for each committee;
- 2) delegate to a committee appointed under paragraph (1) any of the directors' powers, except:
 - i) the power to remove a director;
 - ii) the power to change the membership of, or fill vacancies in, any committee of the directors; and
 - iii) the power to appoint or remove officers appointed by the directors; and
- 3) make any delegation referred to in paragraph (2) subject to the conditions set out in the resolution or any subsequent directors' resolution.

19.3. Obligations of Committees

Any committee appointed under Articles 19.1 or 19.2, in the exercise of the powers delegated to it, must:

- 1) conform to any rules that may from time to time be imposed on it by the directors; and
- 2) report every act or thing done in exercise of those powers at such times as the directors may require.

19.4. Powers of Board

The directors may, at any time, with respect to a committee appointed under Articles 19.1 or 19.2:

- 1) revoke or alter the authority given to the committee, or override a decision made by the committee, except as to acts done before such revocation, alteration or overriding;
- 2) terminate the appointment of, or change the membership of, the committee; and
- 3) fill vacancies in the committee.

19.5. Committee Meetings

Subject to Article 19.3(1) and unless the directors otherwise provide in the resolution appointing the committee or in any subsequent resolution, with respect to a committee appointed under Articles 19.1 or 19.2:

- 1) the committee may meet and adjourn as it thinks proper;
- 2) the committee may elect a chair of its meetings but, if no chair of a meeting is elected, or if at a meeting the chair of the meeting is not present within 15 minutes after the time set for holding the meeting, the directors present who are members of the committee may choose one of their number to chair the meeting;
- 3) a majority of the members of the committee constitutes a quorum of the committee; and
- 4) questions arising at any meeting of the committee are determined by a majority of votes of the members present, and in the case of an equality of votes, the chair of the meeting does not have a second or casting vote.

20. Officers

20.1. Directors May Appoint Officers

The directors may, from time to time, appoint such officers, if any, as the directors determine and the directors may, at any time, terminate any such appointment.

20.2. Functions, Duties, and Powers of Officers

The directors may, for each officer:

- 1) determine the functions and duties of the officer;
- 2) delegate to the officer any of the powers exercisable by the directors on such terms and conditions and with such restrictions as the directors think fit; and
- 3) revoke, withdraw, alter, or vary all or any of the functions, duties, and powers of the officer.

20.3. Qualifications

No officer may be appointed unless that officer is qualified in accordance with the *Business Corporations Act*. One person may hold more than one position as an officer of the Company. Any person appointed as the chair of the board or as a managing director must be a director. Any other officer need not be a director.

20.4. Remuneration and Terms of Appointment

All appointments of officers are to be made on the terms and conditions and at the remuneration (whether by way of salary, fee, commission, participation in profits or otherwise) that the directors think fit and are subject to termination at the pleasure of the directors, and an officer may in addition to such remuneration be entitled to receive, after they cease to hold such office or leaves the employment of the Company, a pension or gratuity.

21. Indemnification

21.1. Definitions

In this Article 21:

- 1) **“eligible penalty”** means a judgment, penalty, or fine awarded or imposed in, or an amount paid in settlement of, an eligible proceeding;
- 2) **“eligible proceeding”** means a legal proceeding or investigative action, whether current, threatened, pending, or completed, in which a director, former director, or alternate director of the Company (an **“eligible party”**) or any of the heirs and legal personal representatives of the eligible party, by reason of the eligible party being or having been a director or alternate director of the Company:
 - i) is or may be joined as a party; or
 - ii) is or may be liable for or in respect of a judgment, penalty, or fine in, or expenses related to, the proceeding; and
- 3) **“expenses”** has the meaning set out in the *Business Corporations Act*.

21.2. Mandatory Indemnification of Directors

Subject to the *Business Corporations Act*, the Company must indemnify a director, former director, or alternate director of the Company and their heirs and legal personal representatives against all eligible penalties to which such person is or may be liable, and the Company must, after the final disposition of an eligible proceeding, pay the expenses actually and reasonably incurred by such person in respect of that proceeding. Each director and alternate director is deemed to have contracted with the Company on the terms of the indemnity contained in this Article 21.2.

21.3. Permitted Indemnification

Subject to any restrictions in the *Business Corporations Act*, the Company may indemnify any person.

21.4. Non-Compliance with Business Corporations Act

The failure of a director, alternate director, or officer of the Company to comply with the *Business Corporations Act* or these Articles or, if applicable, any former Companies Act or former Articles, does not invalidate any indemnity to which such person is entitled under this Part 21.

21.5. Company May Purchase Insurance

The Company may purchase and maintain insurance for the benefit of any person (or their heirs or legal personal representatives) who:

- 1) is or was a director, alternate director, officer, employee, or agent of the Company;

- 2) is or was a director, alternate director, officer, employee, or agent of a corporation at a time when the corporation is or was an affiliate of the Company;
- 3) at the request of the Company, is or was a director, alternate director, officer, employee, or agent of a corporation or of a partnership, trust, joint venture, or other unincorporated entity;
- 4) at the request of the Company, holds or held a position equivalent to that of a director, alternate director, or officer of a partnership, trust, joint venture, or other unincorporated entity,

against any liability incurred by such person as such director, alternate director, officer, employee, or agent or person who holds or held such equivalent position.

22. Accounting Records and Auditor

22.1. Recording of Financial Affairs

The directors must cause adequate accounting records to be kept to record properly the financial affairs and condition of the Company and to comply with the *Business Corporations Act*.

22.2. Inspection of Accounting Records

Unless the directors determine otherwise, or unless otherwise determined by special resolution, no shareholder of the Company is entitled to inspect or obtain a copy of any accounting records of the Company.

22.3. Remuneration of Auditor

The directors may set the remuneration of the auditor of the Company.

23. Notices

23.1. Method of Giving Notice

Unless the *Business Corporations Act* or these Articles provide otherwise, a notice, statement, report, or other record required or permitted by the *Business Corporations Act* or these Articles to be sent by or to a person may be sent by any one of the following methods:

- 1) mail addressed to the person at the applicable address for that person as follows:
 - i) for a record mailed to a shareholder, the shareholder's registered address;
 - ii) for a record mailed to a director or officer, the prescribed address for mailing shown for the director or officer in the records kept by the Company or the mailing address provided by the recipient for the sending of that record or records of that class; and
 - iii) in any other case, the mailing address of the intended recipient;
- 2) delivery at the applicable address for that person as follows, addressed to the person:
 - i) for a record delivered to a shareholder, the shareholder's registered address;

- ii) for a record delivered to a director or officer, the prescribed address for delivery shown for the director or officer in the records kept by the Company or the delivery address provided by the recipient for the sending of that record or records of that class; and
 - iii) in any other case, the delivery address of the intended recipient;
- 3) unless the intended recipient is the auditor of the Company, sending the record by fax to the fax number provided by the intended recipient for the sending of that record or records of that class;
 - 4) unless the intended recipient is the auditor of the Company, sending the record by email to the email address provided by the intended recipient for the sending of that record or records of that class; or
 - 5) physical delivery to the intended recipient.

23.2. Deemed Receipt

A notice, statement, report, or other record that is:

- 1) mailed to a person by ordinary mail to the applicable address for that person referred to in Article 23.1 is deemed to be received by the person to whom it was mailed on the day (Saturdays, Sundays, and holidays excepted) following the date of mailing;
- 2) faxed to a person to the fax number provided by that person referred to in Article 23.1 is deemed to be received by the person to whom it was faxed on the day it was faxed; and
- 3) emailed to a person to the email address provided by that person referred to in Article 23.1 is deemed to be received by the person to whom it was emailed on the day it was emailed.

23.3. Certificate of Sending

A certificate signed by the secretary, if any, or other officer of the Company or of any other corporation acting in that capacity on behalf of the Company stating that a notice, statement, report, or other record was sent in accordance with Article 23.1 is conclusive evidence of that fact.

23.4. Notice to Legal Personal Representatives and Trustees

A notice, statement, report, or other record may be provided by the Company to the persons entitled to a share or shares in consequence of the death, bankruptcy, or incapacity of a shareholder by:

- 1) mailing the record, addressed to them:
 - i) by name, by the title of the legal personal representative of the deceased or incapacitated shareholder, by the title of trustee of the bankrupt shareholder, or by any similar description; and
 - ii) at the address, if any, supplied to the Company for that purpose by the persons claiming to be so entitled; or

if an address referred to in paragraph (1)(b) has not been supplied to the Company, by giving the notice in a manner in which it might have been given if the death, bankruptcy or incapacity had not occurred.

23.5. Undelivered Notices

If on two consecutive occasions, a notice, statement, report, or other record is sent to a shareholder pursuant to Article 23.1 and on each of those occasions any such record is returned because the shareholder cannot be located, the Company will not be required to send any further records to the shareholder until the shareholder informs the Company in writing of their new address.

24. Execution of Documents Generally

The chair or vice-chair of the board is responsible for executing any instrument, document, or agreement in the name of and on behalf of the Company. If the chair and vice-chair are for any reason unable or unwilling to perform such execution, the directors may appoint any one or more persons, officers, or directors for the purpose of executing any instrument, document, or agreement in the name of and on behalf of the Company and if no such person, officer, or director is appointed, then any one officer or director of the Company may execute such instrument, document, or agreement.

25. Prohibitions

25.1. Definitions

In this part:

- 1) “security” has the meaning assigned in the *Securities Act* (British Columbia);
- 2) “transfer restricted security” means:
 - i) a share of the Company;
 - ii) a security of the Company convertible into shares of the Company; or
 - iii) any other security of the Company which must be subject to restrictions on transfer in order for the Company to satisfy the requirement for restrictions on transfer under the “private issuer” exemption of Canadian securities legislation or under any other exemption from prospectus or registration requirements of Canadian securities legislation similar in scope and purpose to the “private issuer” exemption.

25.2. Application

Article 25.3 does not apply to the Company if and for so long as it is a public company or a pre-existing reporting company which has the Statutory Reporting Company Provisions as part of these Articles or to which the Statutory Reporting Company Provisions apply.

26. Miscellaneous

26.1. Freedom of Information

Whether or not the *Freedom of Information and Protection of Privacy Act* applies to the Company, for so long as the City of Nanaimo is a shareholder of the Company the Directors will cause the Company to make Company documents available to the public where the Act would require that they be disclosed if it did apply to the Company. These documents must be available for inspection at the local government office.

26.2. Directors Powers Limited

Despite any other provisions of these Articles, pursuant to section 137 of the *Business Corporations Act*, the following powers of the directors of the Company to manage or supervise the management of the business and affairs of the Company, whether such powers arise from the *Business Corporations Act*, the notice of articles of the Company, these Articles or otherwise, are transferred to the shareholders of the Company:

- 1) the incurrence, whether absolutely or contingently, of indebtedness for borrowed money whether directly or by capital or financing lease or other indirect financing arrangements;
- 2) the authorization, creation, issuance or transfer of shares in the Company;
- 3) any change to the business or mandate of the Company;
- 4) the composition and authority of, and method of appointment to, the Agency's Board of Directors; and
- 5) the funding model of the Company, including changes to cost-sharing arrangements between shareholders.

26.3. Non-voting Director

A director elected or appointed as a non-voting director may not cast a vote in a vote of the directors.

26.4. Snuneymuxw First Nation

The Snuneymuxw First Nation (the “Snuneymuxw”) is a shareholder of the Company and its agreement to be bound by terms of the Articles of Incorporation and the participation of its nominees participation on board shall not be interpreted in a manner that extinguishes, abrogates or diminishes the rights of Snuneymuxw, including Aboriginal or treaty rights or title which are protected under section 35 of the Constitution Act, 1982 and the Snuneymuxw Treaty 1854. For greater certainty nothing in these Articles and Snuneymuxw’s interest in the Company constitutes consultation with or consent of Snuneymuxw for the purpose of discharging the Crown’s honour and fiduciary in relation to developments that impact upon Snuneymuxw’s indigenous interests.

26.5. Disposal of Local Government Assets

Where a shareholder who is a local government transfers property of the local government to the Company for less than market value consideration, the Company will not dispose of such property without the prior written approval of the applicable shareholder.

26.6. Annual Information Meeting

The Company will hold an annual information meeting open to the public at least once each calendar year as such time and place may be determined by the Directors in order to update the public as to the activities and business of the Company.

27. Business Restrictions

27.1. Business Restrictions

The Company is the economic development corporation through which business, government, First Nation, and community partners collaborate to build Nanaimo's economy, and increase the level of shared prosperity enjoyed by those who live here and has the following responsibilities:

- 1) to implement, maintain, and update as required the Nanaimo Economic Development Strategy
- 2) to develop and directly undertake initiatives aimed at attracting businesses, employers, talent and investment to the community
- 3) to coordinate the sector-specific and other economic development activities undertaken by a range of stakeholder organizations
- 4) to develop and directly undertake initiatives aimed at retaining and expanding existing businesses

27.2. Municipal Security and Guarantees

The Directors will not authorize the Company to borrow money on security provided by any local government shareholder, or the repayment of which is guaranteed by a local government shareholder, except where the local government provides such security or guarantee in a manner permitted by law.

The corporation must limit investments of money that is not immediately required for the purposes of the corporation to investments that local governments may make.

ATTACHMENT B
SHAREHOLDERS AGREEMENT

THIS AGREEMENT dated for reference the ___ day of _____, 2021 is

BETWEEN:

CITY OF NANAIMO
455 Wallace Street
Nanaimo, BC V9R 5J6

AND:

SNUNEYMUXW FIRST NATION
668 Centre Street
Nanaimo, BC V9R 4Z4

AND:

NANAIMO PORT AUTHORITY
Box 131
Nanaimo, BC V9R 5K4

AND:

NANAIMO AIRPORT COMMISSION
3238 Mustang Road
Cassidy, BC V0R 1H0

AND:

NANAIMO CHAMBER OF COMMERCE
2133 Bowen Road
Nanaimo, BC V9S 1H8

AND:

VANCOUVER ISLAND UNIVERSITY
900 Fifth Street
Nanaimo, BC V9R 5S5

DRAFT

WHEREAS:

- A. The Company was incorporated under the Act , 2022;
- B. The City of Nanaimo owns one Class A Equity Share;
- C. Nanaimo Chamber of Commerce, Nanaimo Airport Commission, Nanaimo Port Authority and Snuneymuxw First Nation each own one Class B Equity Share;
- D. Vancouver Island University owns one Class C Equity Share;
- E. The Shareholders wish for the Company to conduct the Business of the Company;
- F. The Shareholders are the registered and beneficial owners of all of the issued and outstanding shares in the capital of the Company, as set out below:
- G. The Shareholders wish to enter into this Agreement to provide for the management of the Company and to regulate dealings with their investments in it;

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1 - INTERPRETATION

- 1.1 Definitions.** In this Agreement, the following terms have the meaning set out below unless the context requires otherwise:
- (a) **“Act”** means the *Business Corporations Act* (British Columbia) as it may be amended or replaced from time to time;
 - (b) **“Agreement”** means this agreement, including the schedule to this agreement;
 - (c) **“Annual General Meeting Intervals”** means the time period between the date the Company holds an annual general meeting until the date the Company holds its next annual general meeting.
 - (d) **“Articles”** means the articles of the Company, as amended from time to time in accordance with the provisions of this Agreement and the Act;
 - (e) **“Auditor”** means the auditor of the Company, as appointed from time to time;
 - (f) **“Bank”** means the chartered bank or trust company where the Company maintains its accounts, as determined from time to time in accordance with the provisions of this Agreement;

- (g) **“Board”** means the board of Directors of the Company, as may be appointed from time to time in accordance with the provisions of this Agreement;
- (h) **“Business Day”** means a day other than a Saturday, Sunday or statutory holiday in B.C.
- (i) **“Business of the Company”** means the business of:
- (a) implementing, maintaining, and updating, as required, the Economic Development Strategy;
 - (b) developing and directly undertaking initiatives aimed at attracting businesses, employers, talent, and investment to the community of Nanaimo;
 - (c) coordinating the sector-specific and other economic development activities undertaken by a range of stakeholder organizations; and
 - (d) developing and undertaking initiatives aimed at retaining and expanding existing businesses in the City of Nanaimo.
- (j) **“Class A Shareholder”** means an owner of a Class A Equity Share.
- (k) **“Class B Shareholder”** means an owner of a Class B Equity Share.
- (l) **“Class C Shareholder”** means an owner of a Class C Equity Share.
- (m) **“Default”** has the meaning given in section 7.1;
- (n) **“Defaulting Shareholder”** has the meaning given in section 7.1;
- (o) **“Director”** means a person occupying the position of Director of the Company, and **“Directors”** means every Director;
- (p) **“Economic Development Strategy”** means the current economic development strategy published by the Nanaimo Economic Development section and published on the City of Nanaimo’s website;
- (q) **“Equity Shares”** means the common shares in the capital of the Company, and any other shares in the capital of the Company;
- (r) **“Financial Statements and Report”** has the meaning given in section 4.3(b);
- (s) **“GAAP”** means accounting standards set by the Account Standards Board to prepare financial statements in accordance with Canadian general accepted accounting principles (GAAP), including accounting standards for not-for-profit organizations;

- (t) **“In Kind Contribution”** means a value added contribution provided to the Corporation by a Class B Shareholder without repayment. This includes (but is not limited to) office space rental, equipment leasing, furnishings, shared operating and maintenance costs, shared staffing, advertising, food or meals, preparation of studies and reports, travel expenses, use of meeting spaces and student or volunteer hours. Specific In Kind Contributions are provided at the discretion of the Class B Shareholder to the Corporation. The value of the In Kind Contribution is calculated by the Class B Shareholder and provided to the Corporation as part of the annual reporting process.
- (u) **“Interest”** of a particular Shareholder means, collectively, all of the right, title and interest of the Shareholder in and to any Equity Shares;
- (v) **“Memorandum”** means the memorandum of the Company as amended from time to time in accordance with the provisions of this Agreement and the Act;
- (w) **“Non-Defaulting Shareholder”** has the meaning given in section 7.1;
- (x) **“Obligations”** of a Shareholder means all of its covenants, agreements, obligations, representations and warranties under or imposed by or provided in this Agreement and in any other agreement related hereto or to the Company in its capacity as Shareholder (but not in its capacity as employee);
- (y) **“Party”** means a party to this Agreement and its successors and permitted assigns, and **“Parties”** means every Party;
- (z) **“Person”** includes an individual, a corporation, a partnership, a trust, an unincorporated organization, the government of a country or any political subdivision thereof, or any agency or department of any such government, and the executors, administrators and other legal representatives of an individual in such capacity;
- (aa) **“Shareholder”** means each owner of an Equity Share;

1.2 Interpretation.

- (a) The division of this Agreement into articles and sections, the insertion of headings, and the provision of any table of contents are for the convenience of reference only and shall not affect the construction or interpretation of this Agreement.
- (b) Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.
- (c) Reference in this Agreement to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated, or re-enacted from time to time.

- (d) Unless the context requires otherwise, reference in this Agreement to articles, sections or schedules are to articles, sections or schedules of this Agreement.
 - (e) Unless the context requires otherwise, reference in this Agreement to a day, month or year is a reference to a calendar day, month or year.
- 1.3 Business Days** – If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day.
- 1.4 Currency and Payment Obligations** – Except as otherwise expressly provided in this Agreement, all dollar amounts referred to in this Agreement are stated in Canadian dollars and any payment contemplated by this Agreement shall be made by cash, certified cheque or any other method that provides immediately available funds.
- 1.5 Calculation of Interest** – In calculating interest payable under this Agreement for any period of time, the first day of such period shall be included and the last day of such period shall be excluded.

ARTICLE 2 - SCOPE AND NATURE OF SHAREHOLDERS' RELATIONSHIP

- 2.1 Scope of Agreement** – This Agreement governs and defines the respective rights, interests, powers and obligations of the Shareholders to each other and the Company as beneficial owners of Equity Shares.
- 2.2 Relationship** –
- (a) The Shareholders expressly disclaim any intention to create a partnership or joint venture and nothing in this Agreement shall constitute any Shareholder as the agent of any other Shareholder.
 - (b) No Shareholder shall have or represent that it has the authority or power to act for or to undertake or create any obligation or responsibility, express or implied, on behalf of or in the name of any other Shareholder or shall be, or represent that it is, the agent or legal representative of any other Shareholder.
 - (c) The Shareholders shall not, by virtue of the provisions of this Agreement or their ownership of Equity Shares, be deemed or construed to be carrying on business together.
- 2.3 Separate Activities** – Except as otherwise specifically provided in this Agreement or any other agreement executed by the Shareholders, each of the Shareholders shall have the absolute right to continue, expand, diminish or cease to carry on its existing undertaking and to engage in undertakings separate and apart from the Company. The provisions of this Agreement shall not in any way impose upon any Shareholder a fiduciary duty by reason of its carrying on its separate undertaking and a Shareholder shall not, by reason

of this Agreement, have any interest in any other property owned by any other Shareholder or in any other undertaking of any other Shareholder.

- 2.4 Representations and Covenants** – Each Shareholder represents to the others that it now holds and shall continue to hold its Interest beneficially and free and clear of all restrictions, liens, encumbrances, security agreements and agreements of any kind except as specifically permitted in this Agreement.
- 2.5 Operation and Management** – None of the Shareholders shall do anything or omit to do anything it is obliged to do which might interrupt or interfere in any way, directly or indirectly, with the operation and management of the Company or which could adversely affect or prejudice the interests of the other Shareholders in the Company or the relationship of the Shareholders hereunder. For clarity, a Shareholder’s exercise of their rights to provide or withhold consent for decisions related to a certain matter as outlined in Schedule A does not constitute an interruption or interference with the operation and management of the Company.
- 2.6 Compliance with Agreement** – Each Shareholder shall at all times keep, observe and perform all of its Obligations and do all acts and things and vote its Equity Shares and otherwise exercise its rights as a shareholder to cause such meetings to be held, resolutions to be passed, documents to be executed and, to the extent permitted by applicable law, to cause its nominees on the Board to act (or to remove such nominees for failing to act), so that at all times the provisions, conditions, restrictions and prohibitions in this Agreement are complied with.

ARTICLE 3 - CORPORATE AFFAIRS

3.1 Directors and Officers–

- (a) The number, eligibility requirements, and method of appointment and election of Directors are outlined in Schedule B hereto.
- (b) Aside from the first Directors, whose term is outlined in Schedule B, every Director will serve for two Annual General Meeting Intervals and will cease to hold office immediately after to the annual general meeting marking the end of their term.
- (c) At the end of their term, Directors may be reappointed or re-elected for up to two additional terms. For clarity, Directors may serve a maximum of three terms.
- (d) At every annual general meeting of the company, the Shareholders must appoint or elect Directors in accordance with these Articles to fill vacancies created by preceding Directors whose terms have expired such that the board of Directors consists of the number of Directors as set under these articles.

- (e) In the event of any vacancy on the Board, such vacancy shall be filled by a Person designated by the Shareholder who appointed or elected the former Director whose loss of office created the vacancy, or by at least a 3/5 resolution of the Shareholders if the former Director whose loss of office created the vacancy was appointed by at least a 3/5 resolution of the Shareholders.
 - (f) The quorum required for the transaction of business at a Board meeting shall be five Directors, and all resolutions of the Board require the favourable votes of a majority of the Directors.
 - (g) In the event that a Director fails to vote and act as a Director to carry out the provisions of this Agreement, then the Shareholders agree to exercise their rights as Shareholders of the Company and in accordance with the Act to remove such Director from the Board and to appoint in his or her place an individual who will use his or her best efforts to carry out the provisions of this Agreement, and the vacancy created by the removal of such Director will be filled in accordance with subsection 3.1(e).
 - (h) Without limiting section 3.1(g), a Director shall be deemed to have failed to act as a Director by not attending three consecutive meetings of the Board without cause. Acceptable absences may include health issues, or the death of a family member.
- 3.2 Restriction on Certain Decisions** – No action shall be taken by the Company in respect of or within the scope of the matters outlined in Schedule A except in accordance with the procedures outlined in Schedule A.
- 3.3 Officers** – The Officers of the Company will be determined from time to time by the Board, in its sole discretion.

ARTICLE 4 - CORPORATE RECORDS AND REPORTING

- 4.1 Books and Records** – The Company shall at all times maintain proper books of account, which shall contain accurate and complete records of all transactions, receipts, expenses, assets and liabilities of the Company. The Company shall maintain a system of accounting and reporting established and administered in accordance with GAAP.
- 4.2 Financial Year** – The financial year of the Company shall end on December 31 in each year.
- 4.3 Budgets and Reporting** – The Company shall prepare and deliver to the Shareholders:
- (a) at least 60 days before the commencement of each financial year of the Company, a budget in respect of the ensuing financial year, including the financial and cash flow forecast of the projected business activities and operations of the Company, including estimates of proposed and committed expenditures, the subject matter of each

expenditure, all sources of revenue, cash and financing of the Company for the ensuing year and a statement of objectives and plans; and

- (b) annually, within 90 days after the end of its last financial year, comparative financial statements relating separately to the last financial year and the financial year preceding the last financial year, including a balance sheet as at the date to which it is made up, an income statement, a statement of changes in financial position and a statement of changes in retained earnings, together with the report of the Auditor thereon prepared in accordance with generally accepted auditing standards (the “**Financial Statements and Report**”);
- (c) annually, at the Company’s Annual General Meeting, a report, for the latest financial year of the Company, on the operation and performance of the Company that, without limitation:
 - (a) details the Company's initiatives and efforts,
 - (b) details the most recent Financial Statements and Report;
 - (c) assesses the Company's past year performance measures, tracking and reporting that are informed by the Economic Development Strategy, and
 - (d) outlines important initiatives and events the Directors have planned for the upcoming year in accordance with the Economic Development Strategy.
- (d) such other information, accounts, data and projections reasonably practicably obtainable by the Company as any Shareholder may reasonably request from time to time.

All financial statement and other reporting made pursuant to this section shall be prepared in accordance with GAAP applied consistently with prior periods.

4.4 Semi-Annual Briefings – The Directors will provide semi-annual briefings to each of the Shareholders on the operation and performance of the Company.

4.5 Shareholders’ Right of Inspection and Inquiry – The Company shall permit Persons designated by any Shareholder, including accountants or management consultants or others appointed by the Shareholder, to visit and inspect, at the Shareholder's expense, any properties of the Company, to examine the books and financial records of the Company and to discuss its affairs, finances and accounts with the financial officers of the Company, all at such reasonable times and as often as may reasonably be requested by the Shareholder. The Company agrees to answer any inquiries which such Persons may make fully and fairly and to the best of its ability, and agrees that such Persons may discuss the business and affairs of the Company with the officers, Directors and

employees of the Company and with the auditors or accountants of the Company and others reasonably expected to have knowledge of the relevant matters.

- 4.6 Records Confidential** – Each Shareholder acknowledges that all records, material and information pertaining to the Company and any copies thereof obtained by any Shareholder are and shall remain the exclusive property of the Company. For so long as the Company carries on business, each of the Shareholders and the Company shall keep in the strictest confidence, shall not disclose and shall not use, without the consent of the Company or such Shareholder to which the information relates, all non-public information pertaining to or concerning the Company and the Shareholders, including all budgets, forecasts, analyses, financial results, things described in section 4.3, costs, margins, wages and salaries, bids and other business activities, all supplier and customer lists, all non-public intellectual property including trade secrets, unfiled patents, trademarks and technical expertise documentation (including standard terms and agreements).
- 4.7 Auditor** – The Shareholders shall appoint [REDACTED] as Auditor. In any financial year, the Company shall direct the Auditor to audit the financial statements of the Company. The Company and the Shareholders shall afford the Auditor access to all books of account, records, vouchers, cheques, papers and documents of or which may relate to the Company, including those of the Shareholders to the extent that the books, records, vouchers, cheques, papers and documents relate to the Company. The Shareholders may from time to time, by unanimous written consent, appoint a new or further Auditor.
- 4.8 Public Meeting Reporting** –
- (a) Annually, immediately following the Company’s annual general meeting, the Company will hold a public information meeting to inform the public about the activities and achievements of the Company and to provide the public with an opportunity to meet and ask questions of Directors and senior officers of the Company regarding the Company.
 - (b) At each public information meeting of the Company, the Directors will provide and present a report, for the latest financial year of the Company, on the operation and performance of the Company that, without limitation:
 - (a) details the Company's initiatives and efforts,
 - (b) assesses the Company's past year performance using progress measures that are informed by the Economic Development Strategy, and
 - (c) outlines important initiatives and events the Directors have planned for the upcoming year in accordance with the Economic Development Strategy.

ARTICLE 5 - TRANSFER AND DISPOSITION OF INTEREST

- 5.1 General Prohibition** – No Interest or any part thereof shall be sold, exchanged, transferred, disposed of, encumbered, given, devised, or bequeathed, whether directly or indirectly, and no agreement or commitment shall be made to do any of those things except to transfer such Interest to the Company in accordance with requirements of this Article 5. The Company shall not register or permit the registration of any transfer of any Interest or part thereof made otherwise than in compliance with the provisions of this Agreement.
- 5.2 Commitment** –
- (a) A Shareholder is prohibited from withdrawing from this Agreement and transferring, surrendering, giving, devising or bequeathing, whether directly or indirectly, its Interest, until December 31, 2025 (the “**Initial Commitment Date**”).
 - (b) Any time prior to the Initial Commitment Date, a Shareholder may provide the Company with written notice indicating that the Shareholder intends to withdraw from this Agreement and transfer its Interest on the day that immediately precedes the date of the Company’s fourth anniversary of incorporation.
 - (c) Each Shareholder acknowledges and agrees that:
 - (a) if it provides notice in accordance with subsection 5.2(b), its withdrawal from this Agreement and transfer of Interest will become effective on the day that immediately precedes the date of the Company’s fourth anniversary of incorporation; and
 - (b) it will continue to honour any financial commitment made by the Shareholder to a project or initiative of the Company that continues past its withdrawal from this Agreement and transfer of its Interest.
 - (d) After the deadline to withdraw from this Agreement and transfer their Interest specified in section 5.2(b) has passed, the Shareholders that have not given notice under section 5.2(b) are prohibited from withdrawing from this Agreement and transferring, surrendering, giving, devising or bequeathing, whether directly or indirectly, their Interest, from the Initial Commitment date until the sixth anniversary of incorporation.
 - (e) After the date of the Company’s 6th anniversary of incorporation, the Shareholder’s may withdraw from this Agreement and transfer their shares in accordance with section 5.3 and 5.4 of this Agreement.

Section 5.2 (c)(ii) will survive the termination of this Agreement or any Shareholder’s withdrawal therefrom.

5.3 Withdrawal and Transfer of Interest – Each Shareholder agrees that it may only withdraw from this Agreement by:

- (a) giving notice of withdrawal in writing to the other Shareholders, and
- (b) transferring any Interest it holds to the Company.

A Shareholder's withdrawal will become effective when it has completed (a) and (b) above.

5.4 Rights of Shareholder on Withdrawal and Transfer – When a Shareholder withdraws from this Agreement and transfers its Interest:

- (a) the Shareholder will not be entitled to any compensation in exchange for transferring its Interest to the Company, and
- (b) the Company shall retain all rights to land, buildings, assets and other personal or real property owned or held by the Company or held in trust for the Company, and a withdrawing shareholder will absolutely transfer to the other remaining shareholder's (or the Company), without any compensation whatsoever, all its right, title and interest and shall execute such documents as may be necessary to give effect to this transfer.

ARTICLE 6 - FUNDING MODEL AND REVIEW

6.1 Base Funding – Annually, the Shareholder's will base funding to the Company that is intended to cover the expenses outlined in Schedule C to this Agreement.

6.2 Amount and Payment of Base Funding

- (a) The total amount of base funding required by the Company each year will be determined by the Directors and presented to the Shareholder's by the Directors as part of the Company's annual budget.
- (b) The share of base funding payable by each Shareholder is outlined in Schedule C to this Agreement.
- (c) The Shareholder's will pay their share of annual base funding to the Company after receiving the annual budget for the upcoming financial year of the Company and at least 30 days before the commencement of the financial year of the Company.

6.3 Three Year Review –

- (a) Three years after the Initial Commitment Date, the City of Nanaimo will undertake a review of the Company that will include:

- (a) an examination of the Company's mandate, structure, funding, and performance, along with other factors that the Shareholders may identify;
 - (b) assesses the level of community and Shareholder support for the Company;
 - (c) examines the potential to expand the Company's service area to include the broader mid-Vancouver Island economic region; and
 - (d) identifies possible changes to the Company's corporate model for consideration by the Shareholders.
- (b) After completing its review under subsection 6.3 (a), the City of Nanaimo will provide its findings to the Company and the Shareholder's prior to the Company's fourth anniversary of incorporation.

ARTICLE 7 - DEFAULT

7.1 Event of Default – It is an event of default ("**Default**") if a Shareholder ("**Defaulting Shareholder**"):

- (a) fails to observe, perform or carry out any of its obligations hereunder and such failure continues for 30 days after any of the Shareholders not in default (individually "**Non-Defaulting Shareholder**" and collectively "**Non-Defaulting Shareholders**") has in writing demanding that such failure be cured;
- (b) fails to take reasonable actions to prevent or defend assiduously any action or proceeding in relation to any of its Interest for seizure, execution, or attachment or which claims:
 - (a) possession of its Interest;
 - (b) sale of its Interest;
 - (c) foreclosure in respect of its Interest;
 - (d) the appointment of a receiver or a receiver-manager of the Defaulting Shareholder's assets; or
 - (e) forfeiture or termination, of or against, any of the Interest of the Defaulting Shareholder,

and such failure continues for 30 days after a Non-Defaulting Shareholder has in writing demanded that the same be taken or the Defaulting Shareholder fails to defend successfully any such action or proceeding; or

- (c) becomes bankrupt or commits an act of bankruptcy or if a receiver or receiver-manager of its assets is appointed or makes an assignment for the benefit of creditors or otherwise.

7.2 Consequences of Default – In the event of a Default under section 7.1, the Non-Defaulting Shareholders may do one or more of the following:

- (a) pursue any remedy available to them in law or equity, it being acknowledged by each of the Shareholders that specific performance, injunctive relief or other equitable relief may be the only adequate remedy for a Default;
- (b) take all actions in their own names or in the names of the Defaulting Shareholder, the Shareholders or the Company, as may be reasonably required to cure the Default, in which event all payments, costs and expenses incurred therefore shall be paid by the Defaulting Shareholder to the Non-Defaulting Shareholders on demand with interest at the rate of 5% per year; and
- (c) waive the Default, provided however that any waiver of a particular Default shall not operate as a waiver of any subsequent or continuing Default.

ARTICLE 8 - DISPUTE RESOLUTION

- 8.1** The parties hereto agree to attempt to resolve all disputes arising out of or in connection with this Agreement through discussion between the Shareholders.
- 8.2** If a dispute cannot be settled within a period of thirty (30) days after the mediator is appointed, or such longer period agreed to by the parties, all disputes arising out of, or in connection with, this Agreement shall be referred to and finally resolved by a single arbitrator (the “Arbitrator”) pursuant to the *Arbitration Act, S.B.C. 2020, c.2*, as amended.

ARTICLE 9 - General

- 9.1 Issue of Additional Equity Shares.** The Company shall not allot or issue Equity Shares to any Person not a signatory to this Agreement except in accordance with the procedure outlined in Schedule “D”.
- 9.2 Share Certificates** – Each share certificate issued shall have endorsed on it the following notation:

“THE TRANSFER OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE IS SUBJECT TO THE RESTRICTIONS CONTAINED IN THE ARTICLES OF THE COMPANY. THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO RESTRICTIONS ON TRANSFER AND TO OTHER RIGHTS AND OBLIGATIONS SET FORTH IN A SHAREHOLDERS AGREEMENT BETWEEN THE COMPANY AND ITS SHAREHOLDERS, AS SUCH AGREEMENT MAY BE AMENDED, RESTATED OR REPLACED FROM TIME TO TIME.”

9.3 **Advisory Committees –**

- (a) The Directors may appoint advisory committees to engage the broader community in the economic development of the City of Nanaimo; assist in implementing the Economic Development Strategy; provide advice on new and ongoing Company initiatives; and to attend to the business of the Directors. In determining the type of advisory committees that it wishes to appoint, the directors will consider the Economic Development Strategy, requests from the community in Nanaimo, and its own needs.
- (b) In connection with section 9.3(a), the first Directors will, within a reasonable time after their election, appoint and maintain the following advisory committees:
 - (a) a governance committee that creates and implements policies and procedures governing the procedure of the board, including in relation to meeting frequency and procedure; and
 - (b) a finance committee that creates and implements policies and procedures governing financial activities of the board, including expenditure approval and expense reimbursement.

9.4 Conflict of Memorandum or Articles. In the event of inconsistency between this Agreement and either or both of the Memorandum or Articles, this Agreement shall apply and prevail, and the Parties shall immediately make all changes to the Memorandum and Articles as are necessary and lawful to render them consistent with this Agreement.

9.5 Termination of Agreement. This Agreement shall come into force and be effective as of and from the date of this Agreement and will continue in full force until this Agreement is terminated by the written agreement of the Shareholders or the Company is dissolved pursuant to the Act. Notwithstanding the foregoing, the obligation to pay all instalments for Equity Shares purchased pursuant to this Agreement shall survive any termination of this Agreement.

9.6 Remedies. The Parties acknowledge and agree that all restrictions contained in this Agreement are reasonable and valid and that all defences to the strict enforcement thereof are hereby waived, and that the rights, privileges, restrictions and conditions set forth in this Agreement are special and unique such that a breach thereof cannot be adequately compensated through an award of damages. Accordingly, any Party shall be entitled to temporary and permanent injunctive relief or for an order for specific performance, as the case may be, against every other Party who is in breach of this Agreement without the necessity of having to prove damages. Any remedy set forth in or contemplated by this Agreement shall be in addition to and not in substitution for or dependent upon any other remedy.

- 9.7 Entire Agreement.** This Agreement, together with any schedules attached to this Agreement and any agreements and documents to be delivered pursuant to the terms of this Agreement, constitutes the entire agreement between the Parties pertaining to the subject matter of this Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written. There are no conditions, warranties, representations or other agreements between the Parties in connection with the subject matter of this Agreement, whether oral or written, express or implied, statutory or otherwise, except as specifically set out in this Agreement.
- 9.8 Amendment.** No amendment to this Agreement will be effective unless made in writing and signed by the Parties.
- 9.9 Waiver.** A waiver of any default, breach or non-compliance under this Agreement is not effective unless in writing and signed by the Party to be bound by the waiver. No waiver shall be inferred from or implied by any failure to act or delay in acting by a Party in respect of any default, breach, non-observance or by anything done or omitted to be done by the other Party. The waiver of a Party of any default, breach or non-compliance under this Agreement shall not operate as a waiver of that Party's rights under this Agreement in respect of any continuing or subsequent default, breach or non-compliance (whether of the same or any other nature).
- 9.10 Governing Law.** This Agreement shall be construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable in the Province of British Columbia and shall be treated in all respects as a British Columbia contract. Each of the parties irrevocably attorns to the jurisdiction of the courts of the Province of British Columbia.
- 9.11 Severability.** Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.
- 9.12 Time of Essence.** Time is of the essence of this Agreement.
- 9.13 Further Assurances.** Each Party shall promptly do, execute, deliver or cause to be done, executed and delivered all further acts, documents and things in connection with this Agreement that the other Party may reasonably require for the purposes of giving effect to this Agreement.
- 9.14 Notices.**
- (a) Any notice or other communication required or permitted to be given by this Agreement shall be in writing and shall be effectively given and made if delivered personally, sent by

prepaid courier service, sent by registered mail, or sent by prepaid telecopier, telex or other similar means of electronic communication, in each case to the applicable address set out below:

- (a) if to the City of Nanaimo

455 Wallace Street
Nanaimo, BC V9R 5J6

Attention:
Email:
Phone:

- (b) if to Snuneymuxw First Nation

668 Centre Street
Nanaimo, BC V9R 4Z4

Attention:
Email:
Phone:

- (c) if to the Nanaimo Port Authority

Box 131
Nanaimo, BC V9R 5K4

Attention:
Email:
Phone:

- (d) if to the Nanaimo Airport Commission

3238 Mustang Road
Cassidy, BC V0R 1H0

Attention:
Email:
Phone:

- (e) if to the Nanaimo Chamber of Commerce

2133 Bowen Road
Nanaimo, BC V9S 1H8

Attention:
Email:
Phone:

(f) if to Vancouver Island University

900 Fifth Street
Nanaimo, BC V9R 5S5

Attention:

Email:

Phone:

Any notice or other communication so given shall be deemed to have been given and received on the day of delivery if delivered, or on the day of faxing or sending by other means of recorded electronic communication, provided that such day is a Business Day and such notice or other communication is so delivered, faxed or sent prior to 4:30 p.m. on such day. Otherwise, such notice or communication shall be deemed to have been given and received on the next following Business Day. Any notice or other communication sent by registered mail shall be deemed to have been given and received on the fifth Business Day following the mailing thereof; provided however that no such notice or other communication shall be mailed during any actual or apprehended disruption of postal services. Any such notice or other communication given in any other manner shall be deemed to have been given and received only upon actual receipt.

(b) Any Party may from time to time change its address under this section 9.14 by notice to the other Party given in the manner provided by this Section.

9.15 Tender. Any tender of documents pursuant to this Agreement may be made upon the Parties or their respective solicitors.

9.16 Successors and Assigns. This Agreement shall enure to the benefit of, and be binding on, the Parties and their respective heirs, executors, administrators, successor and permitted assigns. No Shareholder may assign or transfer, whether absolutely, by way of security or otherwise, all or any part of its rights or obligations under this Agreement, without the prior consent of the other Shareholders.

9.17 Counterparts. This Agreement may be executed in counterparts, which together shall be deemed to constitute one agreement.

9.18 Snuneymuxw First Nation. One of the Class B Shareholders is the Snuneymuxw First Nation, and this Agreement and any communications or negotiations between the Parties with respect to this Agreement, and Snuneymuxw's interest in the Company and participation in its mind and management shall not be interpreted in a manner that extinguishes, abrogates or diminishes the rights of Snuneymuxw, including Aboriginal or treaty rights or title which are protected under section 35 of the Constitution Act, 1982 and the Snuneymuxw Treaty 1854. For greater certainty nothing in this Agreement and Snuneymuxw's interest in the Company and participation in its management constitutes

consultation or consent of Snuneymuxw for the purpose of discharging the Crown's honour and fiduciary duty in relation to developments that impact upon Snuneymuxw's indigenous interests.

DRAFT

IN WITNESS WHEREOF this Agreement has been duly executed on the dates set out below, and is effective from and after the last date signed.

CITY OF NANAIMO by its authorized signatories:)

Name:)

Name:)

Date: _____)

C/S

SNUNEYMUXW FIRST NATION by its authorized signatories:)

Name:)

Name:)

Date: _____)

C/S

DRAFT

NANAIMO PORT AUTHORITY by its authorized signatories:)

Name:)

Name:)

Date: _____)

C/S

NANAIMO AIRPORT COMMISSION by its)
authorized signatories:)

C/S

_____))
Name:)

_____))
Name:)

Date: _____))

NANAIMO CHAMBER OF COMMERCE by)
its authorized signatories:)

C/S

_____))
Name:)

_____))
Name:)

Date: _____))

DRAFT

VANCOUVER ISLAND UNIVERSITY by its)
authorized signatories:)

C/S

_____))
Name:)

_____))
Name:)

Date: _____))

SCHEDULE "A"**SPECIAL MATTERS REQUIRING SHAREHOLDERS' APPROVAL AND METHOD OF APPROVAL**

1. No action shall be taken by the Company in respect of or within the scope of the following matters unless such action receives unanimous consent of the Class A Shareholders of the Company:
 - a. the incurrence, whether absolutely or contingently, of indebtedness for borrowed money whether directly or by capital or financing lease or other indirect financing arrangements; and
 - b. the authorization, creation, issuance or transfer of any Class A Shares.
2. No action shall be taken by the Company in respect of or within the scope of the following matters unless such action receives consent of the 2/3 of the Shareholders of the Company:
 - a. the authorization, creation, issuance or transfer of any Class B or C Shares;
 - b. any material change to or within the Business of the Company;
 - c. the composition and authority of, and method of appointment to, the Agency's Board of Directors
3. No action shall be taken by the Company in respect of or within the scope of the following matters unless such action receives consent by at least a 3/5 resolution of the Board and has been first authorized by a unanimous resolution of the Shareholders:
 - a. The Budgets of the Company required by section 4.3. The approval of any Budget which includes and specifically identifies transactions of the types described in this Schedule (whether or not this Schedule is referred to) shall be considered approval of such transactions as required by this section;
 - b. Any direct or indirect participation by the Company in any business other than the Business of the Company;
 - c. The acquisition of assets not normally used in the conduct of the Business of the Company;
 - d. Any material contract, agreement, obligation, liability or other transaction which is not in the ordinary course of the Business of the Company, or with a value in excess of \$100,000.00;
 - e. Any material discontinuance of the Business of the Company;

- f. The lending of money by the Company or the incurrence of any guarantee or indemnity obligations;
- g. Any contract, agreement or other transaction which directly or indirectly provides or could provide to any Shareholder or any Person not at arm's length with a Shareholder any direct or collateral benefit or advantage whether or not greater than fair market value;
- h. The appointment or dismissal of officers and other senior employees of the Company, or their compensation, prerequisites and severance payments;
- i. Any declaration or payment of dividends or commitment to make or the making of a distribution of surplus or earnings or return of capital or Equity Share;
- j. Any acquisition or agreement to acquire any business or capital asset, any capital or financing lease (or agreement to enter into such a lease) of real or personal property or any acquisition or agreement to acquire property by way of conditional sale agreement or purchase money security interest having a value in excess of \$100,000.00 in respect of any one transaction or series of transactions in respect of any one fiscal year, provided that the foregoing limit shall not apply to those acquisitions or agreements to acquire contemplated by an approved and current annual budget for the Company;
- k. Any sale, lease, exchange, mortgage or other disposition of substantially all of the property or assets of the Company or of a part of the property or assets of the Company;
- l. Any amalgamation or merger of the Company with any other body corporate, or any corporate reorganization of the Company of any kind including a continuance, re-incorporation or arrangement, or a dissolution, liquidation or winding-up of the Company;
- m. Any fundamental change of the types referred to in the Act; and
- n. Any change of the Auditors

SCHEDULE B

NUMBER AND METHOD OF ELECTION AND APPOINTMENT OF DIRECTORS

1. The Board shall be comprised of nine Voting Directors and one Non-Voting Director.
2. The Board shall be appointed and elected as follows:
 - (a) the City of Nanaimo shall appoint:
 - (a) one City of Nanaimo senior staff member to serve as a voting Director, and
 - (b) one elected official of the City of Nanaimo as a non-voting Director;
 - (b) the Snuneymuxw First Nation shall appoint one Director to serve as a voting Director;
 - (c) the Nanaimo Port Authority shall appoint one Director to serve as a voting Director;
 - (d) the Nanaimo Airport Commission shall appoint one Director to serve as a voting Director;
 - (e) the Nanaimo Chamber of Commerce shall appoint one Director to serve as a voting Director; and
 - (f) Vancouver Island University shall appoint one Director to serve as a voting Director;
 - (g) the Shareholders will mutually elect, via at least a 3/5 resolution, three Directors, including at least one Director employed by a not-for-profit or charity organization that has mandate related to poverty alleviation or providing educational services or other resources for children, who apply to be Directors through a public call by the Company for applicants.
3. The initial term of appointment of the first Directors of the Company will be as follows:
 - (a) the first Directors appointed by the City of Nanaimo (as to the voting Director and not the non-voting Director), Snuneymuxw First Nation, Vancouver Island University, Nanaimo Port Authority, Nanaimo Airport Commission and Nanaimo Chamber of Commerce, and will serve until the Company's third annual general meeting, immediately before which they will cease to hold office; and
 - (b) the remaining first Directors, including the non-voting Director appointed by the City of Nanaimo, will serve until the Company's second annual general meeting, immediately after which they will cease to hold office.

Schedule C

Determination and Responsibility for Base Funding

1. Expenses Covered by Base Funding

The following expenses will be covered by base funding:

- (a) staffing costs;
- (b) Board operating costs;
- (c) office expenses, including for renting or leasing space;
- (d) marketing, business development, talent development, and other initiatives aimed at attracting business and investment to Nanaimo;
- (e) community outreach and reporting; and
- (f) other costs identified by the Board and approved as "base funding" by at least a 3/5 resolution of the Shareholders.

2. Share of Base Funding

The Shareholders will contribute the base funding to the Company in each financial year starting in 2022:

- (a) Class B Shareholder's will contribute \$10,000.00 and the Class B Shareholder's shall have the option, at its discretion, to make such contribution in cash or as an "in kind" contribution equivalent to the cash contribution;
- (b) Class C Shareholders are not required to make a financial contribution or an "in kind" contribution; and
- (c) Class A Shareholder's will contribute the balance between the Class B and C Shareholder contributions and the total base funding required by the Company as determined by the Directors in accordance with section 6.2.

Schedule D**Restrictions on Share Issuance**

1. Class A shares may only be issued or transferred to or held by a municipality incorporated under the *Community Charter or Local Government Act* or a regional district incorporated under the *Local Government Act*.
2. Class B shares may only be issued or transferred to or held by: a first nation, federal port authority, airport commission, a club, society, association or corporation that is organized and operated exclusively for social welfare, civic improvement, or for any other purpose except profit; a charity as defined under section 149.1(1)(l) of the *Income Tax Act* or an equivalent section outlining what constitutes a “charity” under that Act; or a first nation.
3. Class C shares may only be issued or transferred to or held by: a public university that is incorporated and operated under the *University Act*.

DRAFT

CITY OF NANAIMO

BYLAW NO. 7338

A BYLAW AUTHORIZING THE CITY OF NANAIMO TO ESTABLISH SCHOOL SITE
ACQUISITION CHARGES

WHEREAS Council may, pursuant to Part 14, Division 20 of the *Local Government Act*, as may be amended or replaced from time to time, impose school site acquisition charges under the terms and conditions of that division;

AND WHEREAS Section 573(2) of the *Local Government Act*, as may be amended or replaced from time to time, authorizes Council, by bylaw, to also impose a school site acquisition charge in relation to a building that will, after construction, alteration or extension, contain fewer than four self-contained dwelling units.

THEREFORE BE IT RESOLVED that the Council of the City of Nanaimo in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. Title

- 1.1 This Bylaw may be cited for all purposes as the "School Site Acquisition Charges Bylaw 2021 No. 7338."

2. Administration

- 2.1 In this bylaw, school site acquisition charge means a school site acquisition charge established under Part 14, Division 20 of the *Local Government Act*.
- 2.2 A school site acquisition charge is payable in relation to a building permit that authorizes construction of a building that, not including secondary suites, will, after construction, contain two or more self-contained dwelling units.
- 2.3 Despite the foregoing, a school site acquisition charge is not payable when an existing building is demolished and replaced with a new building that contains the same number of, or fewer, self-contained dwelling units than the existing building.
- 2.4 The amount of school site acquisition charges payable under this Bylaw will be reduced or waived:
- (a) on the same grounds as; and
 - (b) in an amount equivalent to
- the reductions and waivers granted for the payment of Development Cost Charges as defined in the City of Nanaimo Development Cost Charge Bylaw 2017 No. 7252, as amended or replaced from time to time.

Bylaw 7338
Page 2

PASSED FIRST READING: 2021-DEC-20
PASSED SECOND READING: 2021-DEC-20
PASSED THIRD READING: 2021-DEC-20
ADOPTED: _____

MAYOR

CORPORATE OFFICER